



Planning Proposal

Amendment No. 11 to ELEP 2012 and Repeal of RLEP 1987 to implement the recommendations of the Eurobodalla Rural Lands Strategy and address other matters.

Volume 1

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INTRODUCTION

This planning proposal provides for a range of amendments to Eurobodalla Local Environmental Plan 2012 (ELEP 2012) and the repeal of Rural Local Environmental Plan 1987 (RLEP 1987) to implement the recommendations of the Eurobodalla Rural Lands Strategy and address other matters.

The planning proposal is presented in three volumes, as follows:

Volume 1 provides an assessment of all of the proposed amendments to ELEP 2012 in accordance with the Department of Planning and Environment's Guide to Preparing Planning Proposals.

Volume 2 provides more detailed assessment of the proposed zoning and lot size for each area presented in the Eurobodalla Rural Lands Strategy 2016.

Volume 3 presents the proposed changes to the maps in ELEP 2012, including changes to the following maps:

- Land Zoning Maps
- Lot Size Maps
- Height of Building Maps
- Heritage Maps
- Acid Sulfate Soils Maps
- Wetlands, Riparian Lands and Watercourses Maps
- Public Infrastructure Buffer Maps
- Dwelling Entitlement Maps and
- Land Application Map.

PART 1: OBJECTIVES or INTENDED OUTCOMES

The intended outcome of this planning proposal is to implement the recommendations of the Eurobodalla Rural Lands Strategy and address other matters. The intended outcomes for each item in this planning proposal are identified in Part 2 below.

PART 2: EXPLANATION of PROVISIONS

The following table contains a summary of the LEP amendments that are proposed.

Item number	Name of item	Intended Outcomes
1	Amend Land Use Table and Schedule 2	To facilitate additional land uses as permissible with consent in the R5 and E4 zones, introduce open land use tables in RU1 and RU4 zones and to make grazing of livestock exempt development in the E2 zone. It is also proposed to make boatsheds permissible with consent in the E2 zone and to introduce open land use tables to the business and industrial zones.

Item number	Name of item	Intended Outcomes
2	Amend Clause 4.1E	To include the RU4 zone as a zone where minimum averaging provisions will apply and to ensure no lot resulting from a subdivision of land zoned RU4 using the minimum averaging clause is less than 2ha.
3	Amend Clause 4.2A	To delete the sunset clause to ensure existing dwelling entitlements do not lapse and to delete the 'sealed road' provision due to the introduction of new minimum lot sizes in rural areas.
4	Introduce a new boundary adjustment clause	To increase the opportunities for boundary adjustments on certain lands.
5	Amend Zoning and Minimum Lot Size Maps	To establish appropriate zoning and minimum lot sizes for certain rural land in accordance with the Rural Lands Strategy.
6	Amend Minimum Lot Size Maps	To delete the 1000ha minimum lot size from all land not addressed in item 5.
7	Remove Terrestrial Biodiversity Maps and delete Clause 6.6	To remove the existing Terrestrial Biodiversity Map and delete the associated clause 6.6.
8	Amend Dwelling Entitlement Maps	To identify additional properties that have dwelling entitlements, including those that would have been removed due to the deletion of the "sealed road" provision in clause 4.2A, those in the deferred matter and at the request of the land owner. In addition, it is proposed to amend the maps to more clearly identify properties that have dwelling entitlement.
9	Amend Height of Buildings Maps	To apply a maximum height of buildings to land proposed to be zoned E4 and RU4.
10	Amend Heritage Maps	To transfer items of environmental heritage on land in the deferred matter from the Rural Local Environmental Plan 1987 to the ELEP 2012.
11	Amend Wetlands, Watercourses and Riparian Lands Maps	To identify in ELEP 2012 waterways, wetlands and riparian lands in the deferred matter.
12	Amend Acid Sulfate Soils Maps	To identify in ELEP 2012 acid sulfate soils in the deferred matter.
13	Amend Land Application Map	To remove reference to deferred matter and identify the ELEP 2012 as applying to the whole of Eurobodalla.
14	Amend Public Infrastructure Maps	To identify areas within public infrastructure buffers in the deferred matter.

Item number	Name of item	Intended Outcomes
15	Amend Schedule 1	To make “Advertising signs, being a notice directing the travelling public to tourist facilities or activities or to places of scientific, historical or scenic interest (such as town signs)” permissible with consent in the RU1 and RU4 zone.
16	Introduce a new Airspace Operations clause	To ensure development in the vicinity of the Moruya Airport does not have a detrimental impact on the airport operations.
17	Amend Schedule 1 and Additional Permitted Uses Map	Add Lot 1 DP 118963 to clause 4(1) and the Additional Permitted Uses Map.
18	Amend Schedule 1	Add Recreation facility (indoor) to the list of additional permitted uses for the land at Narooma identified as ‘5’ on the Additional Permitted Uses Map.
19	Amend Land Zoning Map and Minimum Lot Size Map	To rezone Lots 101 and 183 DP 755904, at the corner of Durras Drive and Durras Lake Road, South Durras, from the B2 Local Centre Zone to the R2 Low Density Residential Zone and to introduce a 1500m ² minimum lot size.
20	Amend Land Zoning Map, Minimum Lot Size Map and Height of Buildings Map	To rezone part of Lot 1 DP 1036103, Beach Road, Catalina (Catalina Country Club), from the R2 Low Density Residential Zone to the RE2 Private Recreation Zone and to make consequential changes to the Minimum Lot Size and Height of Buildings Maps.
21	Amend clause 6.2	To ensure a DCP is required for urban release areas in appropriate circumstances.
22	Amend Minimum Lot Size Map	To increase the minimum lot size for land at Lots 1 to 5 DP 1056650, Lots 10 and 11 DP 1189589 and Lot 3 DP 1011462, Old Highway, Narooma from 1500m ² to 2500m ² .
23	Amend Minimum Lot Size Map	To decrease the minimum lot size for certain lands from 600m ² to 550m ² . This applies to certain lands that were included in Amendment No. 7 to ELEP 2012, and will result in a lot size that is consistent with adjoining lands.
24	Amend Land Zoning Map, Minimum Lot Size Map and Height of Buildings Map	To correct the boundary between the R2 and RU1 zones for land that been subdivided for residential purposes at East Moruya (Braemar Estate) and to make consequential changes to the Minimum Lot Size and Height of Buildings Maps.
25	Amend Schedule 4 and Height of Buildings Map	Reclassify a laneway in Batemans Bay to operational and provide for an 18m maximum building height.
26	Amend Schedule 4, Land Zoning Map,	Reclassify land at George Bass Drive, Malua Bay to operational, rezone the land R2 Low Density Residential,

Item number	Name of item	Intended Outcomes
	Lot Size Map and Height of Buildings Map	provide for a minimum lot size of 550m ² and a maximum building height of 8.5m.
27	Rename ELEP 2012 to ELEP 2016 and repeal RLEP 1987	RLEP 1987 is no longer required as all LEP provisions applying to the whole of Eurobodalla will be contained in one LEP, to be renamed ELEP 2016.

PART 3: JUSTIFICATION

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The majority of items in this planning proposal are the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016 (items 1 to 14 and 27). The planning proposal implements the recommendations of the Rural Lands Strategy, which aims to set a 20 year vision for the role of Council in the rural lands of Eurobodalla Shire. The Strategy provides a transparent approach to bringing all the deferred lands that are still under the RLEP 1987 into the ELEP 2012, resulting in one LEP for all of the Eurobodalla.

The Strategy also made recommendations to make other changes to the LEP that will maximise prospects for a vibrant agriculture sector, ensure there is a wide variety of rural living opportunities available in the rural areas, grow rural business opportunities, and support the reasonable desires of landowners to utilise their land resource while complying with the statutory requirements to conserve the biodiversity and landscape qualities of the Shire's private lands. Refer to each Appendix and Volume 2 of this planning proposal for detailed justification of each of the proposed changes to ELEP 2012.

The other items in this planning proposal (items 15 to 26) are not the result of any strategic study or report, but have arisen for a number of reasons, including in response to land owner requests or development enquiries.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is considered the best way of achieving the intended outcomes (refer to each Appendix for a more specific response in relation to each item).

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The South Coast Regional Strategy contains the following actions in relation to rural landscapes and communities:

- *“Existing rural residential zones have the capacity to meet the demands for rural lifestyle housing within the Region. Limited areas for additional rural residential must be located on*

cleared land unsuitable for urban or agricultural uses and will only be agreed to by the Department as part of an endorsed growth management strategy or structure plan”.

- *“The location of non-compatible uses in core productive agricultural areas will be limited to allow agricultural land to be used for farming”.*
- *“The Department of Primary Industries will work with councils to develop appropriate subdivision standards for rural zones”.*
- *Local environmental plans will include minimum subdivision standards for rural and environmental protection zones”.*
- *Local environmental plans will include provisions to limit dwellings in rural and environmental zones”.*
- *The scale of development within and adjacent to existing villages and rural towns will support the role of the town in serving surrounding communities and preserve its character, scale, cultural heritage and social values”.*

The planning proposal is considered to be consistent with all of the above actions. The planning proposal implements Council’s Rural Lands Strategy which was developed with input from officers of the Department of Planning and Environment, the Department of Primary Industries and the Office of Environment and Heritage. The Rural Lands Strategy was developed having regard to the above actions in the South Coast Regional Strategy.

The planning proposal does not significantly expand any rural residential zones, villages or towns and sets appropriate minimum subdivision standards.

While the planning proposal provides for a relatively small number of additional dwellings in rural areas, it retains existing provisions in ELEP 2012 relating to dwelling entitlements in rural and environmental zones.

In relation to the location of non-compatible uses, while the planning proposal provides for “open” rural zones in order to provide more flexibility for rural land owners to diversify rural operations, it is not considered that this would result in land uses that will cause conflicts with existing or future rural activities. As development consent will be required, the potential for any conflicts to arise will be considered as part of any development application.

The other items in this planning proposal (items 15 to 26) are all relatively minor in nature and are considered to be consistent with the South Coast Regional Strategy (refer to each Appendix for a more specific response in relation to each item).

4. *Is the planning proposal consistent with the Council’s local strategy or other local strategic plan*

The majority of the items in this planning proposal implement Council’s Rural Lands Strategy. The other items have not resulted from a local strategy or plan, but are consistent with the objectives of the Eurobodalla Community Strategic Plan – One Community.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal	Items to which SEPP applies	Areas to which SEPP applies
SEPP14 Coastal Wetlands To ensure that coastal wetlands are preserved and protected.	Consistent	1,5,11,12	4,4b,4c,5,8a,8b,10,10a,11,11a,12,12a,14,15,16,17,17a,17b,18,18c,22,22a,22c,24,25,25a,26,27,28,29,32,38
SEPP30 Intensive Agriculture To provide consistent provisions for the assessment of cattle feedlots and piggeries and to extend the definition of rural industry.	Consistent	1	Nil
SEPP62 Sustainable Aquaculture To encourage sustainable aquaculture and to provide minimum performance criteria for permissible aquaculture development.	Consistent	1,5	4,5,8a,8b,9,10,10a,15,16,17,17a,17b,22,22b,22c,25,25a,26,27,29,32, 38,41,42
SEPP 64 Advertising and Signage To ensure signage is compatible with the desired amenity and visual character of an area, provide effective communication in suitable locations, and is of high quality design and finish.	Consistent	15	Nil
SEPP 71 Coastal Protection To further implement the NSW Government's coastal policy.	Consistent	5,11,12,16,17,18,19,20,22,23,24,25,26	4,4a,4b,4c,5,6,7a,7b,8a,8b,9,10,10a,11,11a,12,12a,15,16,17,17a,17b,18,18c,20,21,22, 22a,22b,22c,23,24,25,25a,26,27,28,29,32,38,41,42
SEPP Rural Lands 2008 To facilitate the orderly and economic use and development of rural lands for rural and related purposes through the application of rural planning principles and rural subdivision principles.	Consistent	1,2,3,4,5,6,7,8,15,24	All
SEPP Mining, Petroleum and Extractive Industries 2007 To provide for the proper management and development of mineral, petroleum and extractive material resources.	Consistent	5	2,4c,7b,9,10a,11a,14,15,17,20,24,26,27,34

For a detailed assessment of how each item in this planning proposal is consistent with applicable State Environmental Planning Policies, refer to each Appendix and Volume 2 of this planning proposal.

6. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?*

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal	Items to which Direction applies	Areas to which Direction applies
1.1 Business and Industrial Zones To encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified strategic centres.	Inconsistent	1,19,25	Nil
1.2 Rural Zones To protect the agricultural production value of rural land.	Partly Consistent / Partly Inconsistent	1,2,3,4,5,8,15,24	All Inconsistent: 2,3a,4,4a,6,7b,8,8a,8b,9,9a,10,10a,11,11a,12a,13,14,16,17,17b,18,18a,18c,20,21,22,22c,23,24,25,25a,26a,27,28,29,30,30a,30b,31,32,33,34,36,37a,37b,37c,38
1.3 Mining, Petroleum and Extractive Industries To ensure future extraction of State or regionally significant reserves of extractive materials are not compromised by inappropriate development.	Consistent	5	2,4c,7b,9,10a,11a,14,15,17,20,24,26,27,34
1.4 Oyster Aquaculture To ensure oyster aquaculture is considered and to minimise adverse impacts on water quality.	Consistent	1,5	4,5,8a,8b,9,10,10a,15,16,17,17a,17b,22,22b,22c,25,25a,26,27,29,32,38,41,42
1.5 Rural Lands To protect the agricultural production value and facilitate the orderly and economic development of rural land.	Consistent	1,2,3,4,5,6,7,8,15,24	All
2.1 Environment Protection Zones To protect and conserve environmentally sensitive areas.	Partly Consistent / Partly Inconsistent	1,4,5,6,7,22,26	All Inconsistent: 4c,7b,12,17b,23,32
2.2 Coastal Protection To implement the principles in the NSW Coastal Policy.	Consistent	5,11,12,16,17,18,19,20,22,23,24,25,26	4,4a,4b,4c,5,6,7a,7b,8a,8b,9,10,10a,11,11a,12,12a,15,16,17,17a,17b,18,18c,20,21,22,22a,22b,22c,23,24,25,25a,26,27,28,29,32,38,41,42
2.3 Heritage Conservation To conserve items, areas, objects and places of environmental and indigenous heritage significance.	Consistent	5,10	4,4a,6,11a,12,15,17a,17b,21,22,22a,22b,24,26,27,28,29,32,33,34,35,36,37c,38,42
3.1 Residential Zones To encourage a variety of housing types, ensure access to appropriate infrastructure and services and minimise impacts on the environment and resource lands.	Consistent	5,17,18,19,20,21,22,23,24,26	39,40
3.4 Integrating Land Use and Transport To ensure efficient and viable transport options, reduce dependence on cars,	Consistent	5,17,18,19,20,21,22,23,24,25,26	39,40

support public transport and provide for the efficient movement of freight.			
3.5 Development Near Licensed Aerodromes To ensure the effective and safe operations of aerodromes.	Consistent	16	Nil
4.1 Acid Sulfate Soils To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	Consistent	5,12	4,4b,4c,8a,8b,9,10,10a,11,11a,12a,14,16,17,17a,17b,18,18b,18c,20,21,29,32
4.3 Flood Prone Land To ensure development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy.	Consistent	5,11	4,4b,4c,6,7a,8a,8b,9,10,10a,11,11a,12a,14,15,16,17,17a,17b,18,18a,20,22,24,25,25a,27,28,29,32,37c,38,39
4.4 Planning for Bushfire Protection To protect life, property and the environment from bush fire hazards.	Consistent	1,4,5	All
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent	All	All

In the main, the proposed changes are considered to be consistent with applicable Ministerial Directions (s.117 directions). However, in some areas, the proposed zoning and lot size is inconsistent with Direction 1.2 (Rural Zones) and in some areas the planning proposal is inconsistent with Direction 2.1 (Environmental Zones). Item 7 of this planning proposal is also inconsistent with Direction 2.1.

For a detailed assessment of how each item in this planning proposal is consistent with applicable s.117 Directions, and for justification of any inconsistency, refer to each Appendix and Volume 2 of this planning proposal.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The potential adverse impacts to threatened species or populations, or their habitats, is likely to be minor because the potential for native vegetation removal in addition to what is already permissible is likely to be negligible given the relatively small scale of additional development potential generated by the planning proposal. For development that is permitted with consent, such as subdivision and dwelling houses, the likely significance of development impacts will be assessed as part of the development application process. For land uses that are permitted without consent, such as extensive agriculture, the assessment of any land clearing to facilitate such activities is a matter for the Local Land Services in accordance with the Native Vegetation Act 2000.

For a detailed assessment of how each item in this planning proposal addresses potential environmental impacts, refer to each Appendix and Volume 2 of this planning proposal.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

It is not considered that the planning proposal will result in any other adverse environmental impacts as the scale of additional development in rural areas generated by the planning proposal is relatively small. In some areas, there are SEPP14 wetlands within or adjoining the area. In these areas, future potential dwellings can be located more than 100m away from the wetlands to avoid detrimental environmental effects. As a result, the planning proposal would not result in adverse impacts on the SEPP 14 wetlands.

9. Has the planning proposal adequately addressed any social and economic effects?

It is considered that the planning proposal facilitates additional positive social and economic opportunities for land owners and communities.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

It is considered that the planning proposal will have minimal impacts on existing public infrastructure, as the scale of additional development in rural areas generated by the planning proposal is relatively small. However, public infrastructure issues will be considered as part of any development application received for a particular land use.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

During public exhibition of the draft Rural Lands Strategy, Council received submissions from the following NSW Government Agencies:

- Rural Fire Service
- Office of Environment and Heritage
- Department of Primary Industries – Water
- Department of Primary Industries – Fisheries
- Department of Industry – Mineral Resources
- South East Local Land Services
- Roads and Maritime Services
- Office of Environment and Heritage – Heritage Division.

For further information in relation to the views of State and Commonwealth public authorities, refer to each Appendix and Volume 2 of this planning proposal.

PART 4: COMMUNITY CONSULTATION

Extensive community consultation took place during the development of the Rural Lands Strategy. However, in accordance with the provisions of the Environmental Planning and Assessment Act 1979, public exhibition of this planning proposal will be undertaken following the issue of a Gateway Determination. It is considered that an exhibition period of 28 days for this planning proposal is warranted.

Part 5: PROJECT TIMELINE

Anticipated commencement date (date of Gateway determination)	September 2016
Anticipated timeframe for the completion of required technical information	N/A
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	October 2016
Commencement and completion dates for public exhibition period	November 2016 (28 days)
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	December 2016
Timeframe for the consideration of a proposal post exhibition	January 2017
Date of submission to the department to finalise the LEP	February 2017
Anticipated date RPA will make the plan (if delegated)	N/A
Anticipated date RPA will forward to the department for notification	March 2017

Appendix 1 – Justification for Item No. 1

Name of item	Intended Outcome
Amend Land Use Table and Schedule 2	To facilitate additional land uses as permissible with consent in the R5 and E4 zones, introduce open land use tables in RU1 and RU4 zones and to make grazing of livestock exempt development in the E2 zone. It is also proposed to make boatsheds permissible with consent in the E2 zone and to introduce open land use tables to the business and industrial zones.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. The planning proposal implements the recommendations of the Rural Lands Strategy, which made the following recommendations for additional land uses in various zones.

RU1 zone

Suggested Additional Uses	Comment
Education facilities/ establishments	Public schools would be permissible under SEPP Infrastructure but possibly suitable to have consideration of private education options.
Function centres	Reception centres and similar seem supportable in low impact locations subject to assessment.
Information and education facilities	This category includes many rural tourist related activities such as galleries.
Places of public worship	Not unreasonable to site some religious centres in the rural area.

RU4 zone

Suggested Additional Uses	Comment
Detached dual occupancies	Attached dual occupancy is permissible and lots are large enough in this zone to allow the flexibility of detached dual occupancy.
Function centres	Allowing consideration of tourist related function centres seems justified subject to DA assessment of merit.
Community facilities	The RU4 zone covers a range of areas and the need for a community facility may arise
Jetties	Several sections of RU4 border waterways, subject to development assessment and any needed approvals to use public lands, a jetty may be warranted – eg for a private tourist facility.
Recreation areas	The RU4 zone covers a range of areas and the need to consider a recreation area may arise.
Rural industry (but prohibiting): <ul style="list-style-type: none"> - Livestock processing industries 	Council has found in the past it has been unable to approve some legitimate small scale rural industries in the RU4 zone such as compost farms and small agriculture produce businesses. It is recommended that rural industries be permitted but with the large

<ul style="list-style-type: none"> - Sawmill or log processing works - Stock and sale yards 	intensive rural industries as listed in the column to the left, prohibited.
Secondary dwellings	Secondary dwellings are small ancillary dwellings that can be useful for family accommodation.

R5 zone

Suggested Additional Uses	Comment
Aquaculture	A small aquaculture activity might be accommodated in R5, with consent.
Extensive agriculture	Very small scale extensive agriculture is common now in the R5. Grazing and bee keeping are already permissible without consent. It is recommended extensive agriculture be permissible without consent.
Farm buildings	Ancillary farm style buildings are justified in R5, with consent.
Plant nurseries	A reasonable activity in R5 subject to impact assessment re neighbour amenity protection.
Jetties	Not unreasonable given the interest in and importance of water based recreation and tourism in the Shire. A number of R5 zoned parcels adjoin waterways.
Detached dual occupancies	Attached dual occupancy is permissible and lots are large enough in this zone to allow the flexibility of detached dual occupancy.

E4 zone

Suggested Additional Uses	Comment
Community facility	This use is considered reasonable with assessment of merit.
Environmental facility	This use meets zone objectives and is a low impact use.
Extensive agriculture	Very small scale extensive agriculture is common now in the E4. Grazing and bee keeping are already permissible without consent. It is recommended this use be permissible without consent.
Jetties	Not unreasonable given the interest in and importance of water based recreation and tourism in the Shire. A number of E4 zoned parcels adjoin waterways.
Detached dual occupancies	Attached dual occupancy is permissible and lots are large enough in this zone to allow the flexibility of detached dual occupancy.

E2 zone

Suggested Additional Uses	Comment
Add the E2 zone to the list of zones where "grazing of livestock" is exempt development in Schedule 2 of the Eurobodalla LEP 2012	Extensive agriculture is currently prohibited as a new activity in the E2 zone. Small scale extensive agriculture is common now in parts of the E2 zone under existing use rights provisions. There are a range of habitat values in the current E2 zones and as such instances may arise where it would be reasonable for some extensive activities such as light grazing to be permissible provided the dominant objective of the betterment of the natural system

	could be achieved. It is recommended grazing be exempt development in the E2 zone.
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Section 3.11.1 of the “Report on Consultation” for the Rural Lands Strategy recommends that “Council could also give consideration, in the development of the planning proposal to the use of ‘open’ land use tables for some zones such as RU1, where all uses are permissible with consent except for those specifically listed as prohibited”.

Proposal for RU1 and RU4 zones

After consideration of the recommendations in the Rural Land Strategy and the “Report on Consultation”, Council considers open land use tables to be appropriate for the RU1 and RU4 zones. In this more flexible format, the majority of land uses are permissible with consent, as only the most inappropriate uses are listed as prohibited. The land uses that are permissible with consent, including those currently permissible, those in the above tables, and any other uses not listed as prohibited, would be assessed on merit with consideration of the factors listed in s79C of the EP&A Act and applicable Development Control Plans and Codes.

It is proposed to redraft the land use table for zones RU1 and RU4 to open land use tables, as follows:

Zone RU1 Primary Production

2 Permitted without consent

Environmental protection works; Extensive agriculture; Forestry; Home occupations.

3 Permitted with consent

Agriculture (other than extensive agriculture); Animal boarding or training establishments; Building identification signs; Business identification signs; Camping grounds; Cellar door premises; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Helipads; Highway service centres; Home-based child care; Home businesses; Home industries; Landscaping material supplies; Open cut mining; Plant nurseries; Restaurant or café; Roadside stalls; Rural industries; Rural supplies; Secondary dwellings; Tourist and visitor accommodation (other than hotel or motel accommodation and serviced apartments); Veterinary hospitals; Any other development not specified in item 2 or 4.

4 Prohibited

Advertising structures; Amusement centres; Caravan parks; Child care centres; Commercial premises (other than cellar door premises, landscaping material supplies; plant nurseries, restaurant or café; roadside stalls and rural supplies); Entertainment facilities; Heavy industrial storage establishments; Hotel or motel accommodation; Industrial retail outlets; Industries; Residential accommodation (other than dual occupancies, dwelling houses and secondary dwellings); Residential care facilities; Restricted premises; Serviced apartments; Sex services premises; Vehicle body repair workshops; Vehicle repair stations.

Zone RU4 Primary Production Small Lots

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home occupations.

3 Permitted with consent

Agriculture (other than extensive agriculture and intensive livestock agriculture); Animal boarding or training establishments; Building identification signs; Business identification signs; Camping grounds; Cellar door premises; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Home-based child care; Home businesses; Home industries; Landscaping material supplies; Plant nurseries; Restaurant or café; Roadside stalls; Rural industries (other than livestock processing industries, sawmill or log processing works and stock and sale yards); Rural supplies; Secondary dwellings; Tourist and visitor accommodation (other than hotel or motel accommodation and serviced apartments); Veterinary hospitals; Any other development not specified in item 2 or 4.

4 Prohibited

Advertising structures; Amusement centres; Caravan parks; Child care centres; Commercial premises (other than cellar door premises; landscaping material supplies; plant nurseries; restaurant or café; roadside stalls and rural supplies); Entertainment facilities; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Hotel or motel accommodation; Industrial retail outlets; Industries; Intensive livestock agriculture; Livestock processing industries; Open cut mining; Registered clubs; Residential accommodation (other than dual occupancies, dwelling houses and secondary dwellings); Residential care facilities; Restricted premises; Sawmill or log processing works; Service stations; Serviced apartments; Sex services premises; Stock and sale yards; Transport depots; Truck depots; Warehouse or distribution centres; Waste or resource management facilities; Vehicle body repair workshops; Vehicle repair stations.

Proposal for R5 and E4 zones

The planning proposal for R5 and E4 zones is as shown the respective tables above, consistent with the Rural Lands Strategy. As extensive agriculture is proposed to be included as permissible without consent, the reference in Schedule 2 of ELEP 2012 to grazing of livestock as exempt development in the R5 zone is no longer required.

Proposal for E2 zone

The planning proposal for the E2 zone is as shown in the table above, consistent with the Rural Lands Strategy, and it is also proposed to add boatsheds as a use permitted with consent in the E2 zone.

Proposal for B1, B2, B4, B5 and IN1 zones

The planning proposal also includes the redrafting of the land use tables for business and industrial zones as open land use tables, as outlined on the following pages. The redrafting ensures that all current permissible uses remain permissible and only those uses that are undesirable in each zone are listed in the prohibited column.

Zone B1 Neighbourhood Centre

2 Permitted without consent

Environmental protection works; Home occupations.

3 Permitted with consent

Boarding houses; Building identification signs; Business identification signs; Business premises; Child care centres; Community facilities; Home businesses; Kiosks; Medical centres; Neighbourhood shops; Respite day care centres; Restaurants or cafes; Service stations; Shop top

housing; Take away food and drink premises; Veterinary hospitals; Any other development not specified in item 2 or 4.

4 Prohibited

Advertising structures; Agriculture; Air transport facilities; Animal boarding or training establishments; Camping grounds; Caravan parks; Cellar door premises; Depots; Eco-tourist facilities; Educational establishments; Extractive industries; Farm buildings; Forestry; Heavy industrial storage establishments; Helipads; Highway service centres; Hospitals; Industrial retail outlets; Industries; Office premises; Open cut mining; Residential accommodation (other than boarding houses and shop top housing); Restricted premises; Retail premises (other than neighbourhood shops, restaurants or cafes and take away food and drink premises); Roadside stalls; Rural industries; Sex services premises; Storage premises; Transport depots; Truck depots; Tourist and visitor accommodation; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Wholesale supplies.

Zone B2 Local Centre

2 Permitted without consent

Environmental protection works; Home occupations.

3 Permitted with consent

Amusement centres; Boarding houses; Building identification signs; Business identification signs; Car parks; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Highway service centres; Home businesses; Information and education facilities; Medical centres; Mortuaries; Passenger transport facilities; Public administration buildings; Recreation facilities (indoor); Registered clubs; Respite day care centres; Service stations; Shop top housing; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals; Any other development not specified in item 2 or 4.

4 Prohibited

Advertising structures; Agriculture; Air transport facilities; Animal boarding or training establishments; Camping grounds; Caravan parks; Depots; Eco-tourist facilities; Extractive industries; Farm buildings; Forestry; Heavy industrial storage establishments; Helipads; Hospitals; Industrial retail outlets; Industries; Open cut mining; Residential accommodation (other than boarding houses and shop top housing); Rural industries; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Wholesale supplies.

Zone B4 Mixed Use

2 Permitted without consent

Environmental protection works; Home occupations.

3 Permitted with consent

Amusement centres; Boarding houses; Car parks; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Home businesses; Hostels; Information and education facilities; Medical centres; Mortuaries; Passenger transport facilities; Public administration buildings; Recreation facilities (indoor); Registered clubs; Respite day care centres; Seniors housing; Service stations; Shop top housing;

Signage; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals; Any other development not specified in item 2 or 4.

4 Prohibited

Agriculture; Air transport facilities; Animal boarding or training establishments; Camping grounds; Caravan parks; Depots; Eco-tourist facilities; Extractive industries; Farm buildings; Forestry; Heavy industrial storage establishments; Helipads; Highway service centres; Hospitals; Industrial retail outlets; Industries; Open cut mining; Residential accommodation (other than boarding houses, hostels, seniors housing and shop top housing); Rural industries; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Wholesale supplies.

Zone B5 Business Development

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Business premises; Child care centres; Education establishments; Highway service centres; Light industries; Passenger transport facilities; Public administration buildings; Research stations; Respite day care centres; Retail premises; Service stations; Signage; Transport depots; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Wholesale supplies; Any other development not specified in item 2 or 4.

4 Prohibited

Agriculture; Air transport facilities; Animal boarding or training establishments; Amusement centres; Camping grounds; Caravan parks; Eco-tourist facilities; Entertainment facilities; Extractive industries; Farm buildings; Heavy industrial storage establishments; Industries (other than light industries); Office premises; Open cut mining; Residential accommodation; Tourist and visitor accommodation; Vehicle body repair workshops.

Zone IN1 General Industrial

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Boat building and repair facilities; Building identification signs; Bulky goods premises; Business identification signs; Depots; Freight transport facilities; Funeral homes; Garden centres; General industries; Hardware and building supplies; Heavy industrial storage establishments; Industrial retail outlets; Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Mortuaries; Neighbourhood shops; Places of public worship; Plant nurseries; Public administration buildings; Recreation facilities (indoor); Research stations; Rural industries; Rural supplies; Self-storage units; Service stations; Stock and sale yards; Take away food and drink premises; Timber yards; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Wholesale supplies; Any other development not specified in item 2 or 4.

4 Prohibited

Advertising structures; Agriculture; Air transport facilities; Animal boarding or training establishments; Amusement centres; Business premises (other than funeral homes); Camping

grounds; Caravan parks; Child care centres; Community facilities; Eco-tourist facilities; Education establishments; Entertainment facilities; Farm buildings; Health services facility; Highway service centres; Office premises; Open cut mining; Residential accommodation; Respite day care centres; Retail premises (other than bulky goods premises, garden centres; hardware and building supplies; kiosks, landscaping material supplies; neighbourhood shops; plant nurseries, rural supplies, take away food and drink premises, timber yards and vehicle sales or hire premises); Tourist and visitor accommodation.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The planning proposal is considered the best way of achieving the intended outcomes. As the purpose is to expand the range of permissible uses in the zones, the alternative approach of listing additional permitted uses in Schedule 1 of ELEP 2012 is not considered appropriate.

With regard to grazing of livestock in the E2 zone, the alternative approach considered was the listing of extensive agriculture as permitted with or without consent in the E2 zone. Neither of these alternative options were considered appropriate as they would have provided for cropping in the E2 zone. Further discussion on this matter is included in section 3.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy*

Land uses in the RU1 and RU4 zones

The South Coast Regional Strategy states that *“the location of non-compatible uses in core productive agricultural areas will be limited to allow agricultural land to be used for farming”*.

An open land use table is proposed for RU1 and RU4 zones which would allow Council to assess development applications on merit. Consideration of land uses that may be ‘non-compatible’ to the surrounding agricultural land would be assessed on a case by case basis. This better reflects the changing nature of agriculture in the Eurobodalla Shire. It allows for flexibility to also facilitate alternative rural living opportunities or promote rural tourism, allowing farmers to diversify their operations.

It is not anticipated that an open land use table would result in land uses that will cause conflicts with existing or future rural activities. However, as development consent will be required, the potential for any conflicts to arise will be considered as part of any development application.

Grazing of livestock in the E2 zone

The South Coast Regional Strategy requires *“local environmental plans to zone all coastal wetlands identified in SEPP 14 to achieve environmental protection, through zones such as ‘E2 Environmental Conservation’”*. All SEPP 14 wetlands in Eurobodalla Shire, and some non-SEPP 14 wetlands are currently zoned E2 under ELEP 2012.

The South Coast Regional Strategy also states that *“future development in the catchments of SEPP14 wetlands will need to demonstrate no net impact on the hydrology, water quality or ecology of these wetlands”*. For the most part, land surrounding SEPP 14 wetlands is zoned for rural purposes and much of this land is and has been used for rural activities for a long period of time. Some wetland

areas too, particularly non-SEPP 14 wetlands, have been and are continuing to be used (through existing use rights) for rural activities, such as grazing of livestock, particularly in drier times.

Where existing use rights apply, land owners can lawfully continue to allow livestock to graze in wetland areas without consent.

Through education and landcare activities, Council and NSW Government Agencies have been working with land owners and landcare volunteers to protect important wetlands from the impacts of rural activities. This has involved coming to an agreement with landowners to fence off important areas to exclude livestock from entering. In Council’s view, this is the most effective way to ensure protection of important wetland areas, rather than implementing an approval regime.

The exhibited draft Rural Lands Strategy proposed that extensive agriculture be permitted without consent in the E2 zone. It was intended that this would facilitate the ongoing use of some wetland areas for grazing without land owners having to demonstrate that existing use rights apply. However, in considering submissions on this issue, including from NSW Government Agencies, it was agreed that this was not the most appropriate way to achieve the intended outcome, particularly as the definition of extensive agriculture includes cropping.

It was considered whether extensive agriculture should be permitted with consent in the E2 zone instead, consistent with the recommendation of the Northern Council’s E zones Review. However, this too was not considered appropriate due to the definition including cropping and the red tape this would generate for farmers going about their business.

The proposed listing of grazing of livestock as exempt development in the E2 zone avoids the potential for cropping in sensitive areas and enables farmers to continue existing activities without unnecessary red tape. It is not anticipated that this will encourage farmers who do not have existing use rights for grazing in wetlands to commence such activities. Farmers who are currently protecting wetlands on their properties from grazing activities are expected to continue to do so.

Ongoing education and landcare activities is considered a much better approach to protecting wetlands from inappropriate activities.

4. Is the planning proposal consistent with the Council’s local strategy or other local strategic plan

The planning proposal implements Council’s Rural Lands Strategy.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP14 Coastal Wetlands To ensure that coastal wetlands are preserved and protected.	Consistent See below.
SEPP30 Intensive Agriculture To provide consistent provisions for the assessment of cattle feedlots and piggeries and to extend the definition of rural industry.	Consistent See below.
SEPP62 Sustainable Aquaculture To encourage sustainable aquaculture and to provide minimum performance criteria for permissible aquaculture development.	Consistent See below.
SEPP Rural Lands 2008 To facilitate the orderly and economic use and development of rural lands for rural and related purposes through the application of rural planning principles and rural subdivision principles.	Consistent See below.

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 14 – Coastal Wetlands

SEPP 14 prohibits persons from clearing, constructing a levee, draining or filling land identified as a SEPP 14 wetland. In the SEPP, clearing means the destruction or removal in any manner of native plants growing on the land.

Consistent. Despite the proposal to make grazing of livestock exempt development in the E2 zone, which includes SEPP 14 wetlands, the SEPP prevails over the LEP to prevent any person from destroying native vegetation in a SEPP 14 wetland.

As discussed in Section 3 above, the E2 zone also applies to lands that are not SEPP 14 wetlands and lands that have been and are continuing to be used (through existing use rights) for grazing activities. The Environmental Planning and Assessment Act 1979 provides for the continuation of existing use rights and Council is of the view that education and landcare activities will do more to protect important wetlands than restrictive planning rules.

Given the above, Council considers that the planning proposal is consistent with the provisions of SEPP 14.

SEPP 30 – Intensive Agriculture

SEPP 30 provides for the definition of rural industry to include composting facilities and works.

Consistent. The planning proposal includes the addition of certain elements of the definition of rural industry to be permissible with consent in the RU4 zone and this will facilitate composting facilities and works with consent in that zone.

SEPP 62 – Sustainable Aquaculture

SEPP 62 provides for a range of aquaculture types to be permissible with or without consent in certain zones.

Consistent. The planning proposal is consistent with the SEPP as the majority of rural land is proposed to be zoned RU1 under ELEP 2012 which already permits aquaculture with consent. Aquaculture is also already permissible with consent in the RU4 zone and the planning proposal provides for aquaculture to also be permissible with consent in the R5 zone.

SEPP (Rural Lands) 2008

This SEPP provides a number of rural planning principles, including the following:

- (a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- (b) *recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- (c) *recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- (f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities.*

Consistent. The use of open zone tables proposed for the RU1 and RU4 zones provide for additional agricultural, tourism, residential and community activities in rural areas. The planning proposal is considered to be consistent with the Rural Planning Principles.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
1.1 Business and Industrial Zones To encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified strategic centres.	Consistent See below
1.2 Rural Zones To protect the agricultural production value of rural land.	Consistent See below
1.4 Oyster Aquaculture To ensure oyster aquaculture is considered and to minimise adverse impacts on water quality.	Consistent See below
1.5 Rural Lands To protect the agricultural production value and facilitate the orderly and economic development of rural land.	Consistent See below.
2.1 Environment Protection Zones To protect and conserve environmentally sensitive areas.	Consistent See below.
4.4 Planning for Bushfire Protection To protect life, property and the environment from bush fire hazards.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

1.1 Business and Industrial Zones

This direction states that a planning proposal must:

- (a) give effect to the objectives of this direction,
- (b) retain the areas and locations of existing business and industrial zones,
- (c) not reduce the total potential floor space area for employment uses and related public services in business zones, and
- (d) not reduce the total potential floor space area for industrial uses in industrial zones.

Consistent. The planning proposal is considered to be consistent with the objective and terms of this direction. It retains existing business and industrial zones and does not reduce the total potential floor space for employment uses in business or industrial zones.

1.2 Rural Zones

This direction states that a planning proposal must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

Consistent. The planning proposal provides for additional land uses in rural zones and does not facilitate an increase in permissible density of land in rural zones. The planning proposal is therefore considered to be consistent with this Direction.

1.4 Oyster Aquaculture

This direction applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in adverse impacts on or be incompatible with a Priority Oyster Aquaculture Area or a current oyster aquaculture lease in the national parks estate. If the direction applies, the planning authority must consider the relevant issues and consult with the Director-General of the Department of Primary Industries (DPI).

Consistent. During the public exhibition of the draft Rural Lands Strategy, DPI made a submission that raised concerns with on-site sewerage management systems (OSMS) in rural residential areas, the suitability of land for intensive animal industries and unsealed roads in oyster producing estuaries. While the planning proposal proposes additional land uses that may be proposed in catchments of Priority Oyster Aquaculture Areas or current oyster leases, they do not include additional rural residential areas or intensive animal industries. Council will consult with DPI when the planning proposal is placed on public exhibition.

1.5 Rural Lands

This direction states that a planning proposal must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

Consistent. The planning proposal is consistent with the Rural Planning Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*. Open land use tables proposed for the RU1 and RU4 zones provide for opportunities additional agricultural, tourism, residential and community activities in rural areas.

2.1 Environment Protection Zones

This direction states that a planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land.

Consistent. The planning proposal provides for grazing of livestock to be exempt development in the E2 zone and for boatsheds to be permissible with consent in the E2 zone. Neither of these changes reduce the environmental protection standards that apply to the land. For further discussion on other proposed changes affecting the E2 zone, refer to Appendix 7 and Volume 2 of this planning proposal.

4.4 Planning for Bushfire Protection

This direction states that the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination for a planning proposal.

Further, it states that a planning proposal must:

- (a) *have regard to Planning for Bushfire Protection 2006,*
- (b) *introduce controls that avoid placing inappropriate developments in hazardous areas, and*
- (c) *ensure that bushfire hazard reduction is not prohibited within the APZ.*

Consistent. Council is satisfied that there are suitable opportunities across the rural landscape for the proposed additional uses to be developed in compliance with Planning for Bushfire Protection (PFBP). Any individual development application however will need to be fully assessed in accordance with PFBP. Further consultation with the Rural Fire Service on the details of the planning proposal will be

undertaken and comments made will be taken into considerations prior to finalising the planning proposal.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

For those land uses that will require development consent, the potential impacts on critical habitat, threatened species, populations or ecological communities, or their habitats, will be considered as part of any development application.

For land uses that will be permitted without consent (extensive agriculture in the E4 and R5 zones), the assessment of any land clearing to facilitate such activities is a matter for the Local Land Services in accordance with the Native Vegetation Act 2000.

For the grazing of livestock as exempt development in the E2 zone, there is potential for threatened species, populations or ecological communities or their habitats to be adversely affected. However, as noted above, this is intended to facilitate existing rural activities, particularly in non-SEPP 14 wetlands, and is not expected to result in an increase in grazing activities in the E2 zone. Further, it is considered that ongoing education and land care activities is a better approach to protecting wetlands from inappropriate activities.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

For the grazing of livestock as exempt development in the E2 zone, there is potential for other environmental effects such as a reduction in water quality and impact on migratory birds. However, as noted above, this is intended to facilitate existing rural activities, particularly in non-SEPP 14 wetlands, and is not expected to result in an increase in grazing activities in the E2 zone. Further, it is considered that ongoing education and land care activities is a better approach to protecting wetlands from inappropriate activities.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The provision of additional land uses in the zones is intended to facilitate additional positive social and economic opportunities for land owners and communities.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

Public infrastructure issues will be considered as part of any development application received for a particular land use.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

During public exhibition of the draft Rural Lands Strategy, Council received submissions from the following NSW Government Agencies:

- Rural Fire Service
- Office of Environment and Heritage
- Department of Primary Industries – Water
- Department of Primary Industries – Fisheries
- Department of Industry – Mineral Resources
- South East Local Land Services
- Roads and Maritime Services
- Office of Environment and Heritage – Heritage Division.

The Rural Fire Service noted that the draft Strategy proposed the additional uses ‘function centres’, ‘places of public worship’ and ‘educational establishments’ in RU1 and RU4 zones and that these uses may constitute a special fire protection purpose under Planning for Bushfire Protection 2006. The RFS recommended that Council be satisfied that such uses in rural areas is not likely to result in unacceptable impacts on areas of high conservation value (HCV) due to requirements for bushfire protection measures and is not creating unreasonable expectations for current and future landowners. In response to this submission, Council is satisfied that there are suitable opportunities across the rural landscape for these types of uses to be proposed in compliance with Planning for Bushfire Protection and with minimal impacts on HCV land.

The Office of Environment and Heritage objected to the proposal to make extensive agriculture permitted without consent in the E2 zone. In addition, South East Local Land Services recommended that the potential impacts of new extensive agriculture developments be addressed. In response to these submissions the Rural Lands Strategy was amended to recommend grazing of livestock as exempt development in the E2 zone.

The Department of Primary Industries (DPI Fisheries) noted that development within or adjacent to a marine park should ensure that any associated environmental effects do not adversely impact the marine biodiversity and ecological values of the park. DPI also noted that activities associated with rural lands have the potential to have an adverse impact on water quality more broadly. Council is satisfied that the development assessment process will ensure appropriate assessment of development impacts (for development that requires consent) within or adjacent to the Batemans Marine Park and in relation to potential impacts on waterways. In addition, Council can investigate and take appropriate actions to enforce relevant legislation relating to pollution of waterways and Council works with land owners and relevant State agencies to minimise potential pollution incidents.

The Department of Industry – Mineral Resources supported extensive agriculture as being permissible without consent in the E2, E4 and R5 zones as under the Mining SEPP, extractive industry can be carried out without consent on land where agriculture or industry is allowed. Despite the change to the Rural Lands Strategy to recommend grazing of livestock as exempt development in the E2 zone, the Mining SEPP will continue to apply.

Appendix 2 – Justification for Item No. 2

Name of item	Intended Outcome
Amend Clause 4.1E	To include the RU4 zone as a zone where minimum averaging provisions will apply and to ensure no lot resulting from a subdivision of land zoned RU4 using the minimum averaging clause is less than 2ha.

Section A – NEED for the PLANNING PROPOSAL

1. *Is the planning proposal a result of any strategic study or report?*

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. The planning proposal implements the following recommendation of the Rural Lands Strategy:

Action: *That Clause 4.1E of the Eurobodalla LEP 2012 be amended to add the RU4 zone as a zone where minimum averaging provisions apply. Further that the new clause be subject to a requirement that no lot be created below 2 ha in area*

Rationale: *The current 2012 LEP only allows minimum averaging in the E4 and R5 zones. While the broader objective of RU4 is recommended to move more towards being a zone for small lot agriculture, the advantage that minimum averaging brings of permitting a wider range of lot sizes, while still containing density to the average of the mapped lot size is worth supporting. Each DA would be assessed on its merits. However to make sure the small lot farming objectives are met, it is proposed no lot be able to be created under minimum averaging in RU4 below 2 ha as this is seen as a desirable minimum for the zone objectives of being small lot farms.*

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The planning proposal presents the only way to achieve minimum averaging in the RU4 zone in a manner that ensures development is consistent with the zone objectives.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy*

The South Coast Regional Strategy states that the Department of Primary Industries (DPI) will work with councils to develop appropriate subdivision standards for rural zones, to be included in local environmental plans. The DPI were involved in the development of the Rural Lands Strategy through the Rural Lands Strategy Steering Committee. Given the proposed amendment includes a minimum lot size of 2ha in any minimum averaging proposal, it is considered that the planning proposal achieves an appropriate subdivision standard for the RU4 zone and is therefore consistent with the South Coast Regional Strategy.

4. *Is the planning proposal consistent with the Council's local strategy or other local strategic plan*

The planning proposal implements Council's Rural Lands Strategy.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
<p>SEPP Rural Lands 2008 To facilitate the orderly and economic use and development of rural lands for rural and related purposes through the application of rural planning principles and rural subdivision principles.</p>	<p>Consistent See below.</p>

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP (Rural Lands) 2008

This SEPP provides a number of rural subdivision principles, including the following:

- (a) *the minimisation of rural land fragmentation,*
- (b) *the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses.*

Consistent. Given the proposed amendment includes a minimum lot size of 2ha in any minimum averaging proposal, the planning proposal is considered to be consistent with the Rural Subdivision Principles.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
<p>1.2 Rural Zones To protect the agricultural production value of rural land.</p>	<p>Consistent See below.</p>
<p>1.5 Rural Lands To protect the agricultural production value and facilitate the orderly and economic development or rural land.</p>	<p>Consistent See below.</p>
<p>5.1 Implementation of Regional Strategies To give legal effect to regional strategies.</p>	<p>Consistent See below.</p>

An assessment of applicable s.117 Directions against the planning proposal is provided below.

1.2 Rural Zones

This direction states that a planning proposal must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

Consistent. The planning proposal provides for an alternative means of achieving the same density of development in the RU4 zone as the total number of lots resulting from a subdivision using minimum averaging will not exceed the number of lots that could be created by a subdivision under the mapped minimum lot size standard for that land. Further, the proposed minimum lot size of 2ha in any subdivision ensures development will continue to meet the objectives of the RU4 zone. The planning proposal is therefore considered to be consistent with this Direction.

1.5 Rural Lands

This direction states that a planning proposal must be consistent with the Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

Consistent. Given the proposed amendment includes a minimum lot size of 2ha in any minimum averaging proposal, the planning proposal is considered to be consistent with the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

One of the key reasons for using minimum averaging is to facilitate development opportunities in a manner that minimises impacts on environmentally sensitive areas. However, detailed environmental assessments for any proposed subdivision using the minimum averaging clause will be undertaken at the development application stage.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

Detailed environmental assessments for any proposed subdivision using the minimum averaging clause will be undertaken at the development application stage.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The provision of the opportunity to subdivide land in the RU4 zone using minimum averaging is intended to facilitate additional positive economic opportunities for land owners, to provide a mix of lot sizes for small-scale rural activities and to facilitate development that has minimal impacts on environmental areas and productive rural lands.

Section D – STATE and COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

Public infrastructure issues will be considered as part of any development application received for the subdivision of land.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

As this proposal was incorporated into the Rural Lands Strategy following exhibition in response to submissions, Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 3 – Justification for Item No. 3

Name of item	Intended Outcome
Amend Clause 4.2A	To delete the sunset clause to ensure existing dwelling entitlements do not lapse and to delete the 'sealed road' provision due to the introduction of new minimum lot sizes in rural areas.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. The planning proposal implements the following recommendations of the Rural Lands Strategy:

Action: That the sunset clause 4.2A (3) be removed from the Eurobodalla LEP 2012.

Rationale: Currently, some landowners face the prospect of their existing rights to apply for a dwelling being extinguished due to the 5 year sunset clause applying to specified holdings in Clause 4.2A (3) of the Eurobodalla LEP 2012. While action to simplify and clarify dwelling entitlements has merit, it is reasonable for existing provisions to be retained until a satisfactory alternative approach can be resourced and developed.

Action: That Council amend the Eurobodalla LEP 2012 to delete clause 4.2A(2)(a). Further that the Planning Proposal to make that change give consideration to measures to ensure the reasonable expectations of owners of such vacant lots are conserved.

Rationale: This clause only permits consideration for a dwelling where the lot is 40 ha or greater and has direct access to a Council managed sealed road. There are relatively few lots that can take advantage of this clause and the alternative provisions recommended in this strategy have a planned basis for setting further dwellings in the general rural area. As such it is recommended the clause be deleted. But given a few people may have purchased such lots with the objective of applying for consent to develop a dwelling, the planning proposal should consider the impact of removing the clause on those lots.

Note: To ensure the reasonable expectations of owners of vacant lots that benefited from the 'sealed road' clause, it is proposed to identify these lots on the Dwelling Entitlement Map. Refer to Appendix 8 for discussion on this matter.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal provides the only way to ensure existing dwelling entitlements are retained and to delete the 'sealed road' provision. In relation to the sunset clause, an alternative approach could be to extend the period of time before relevant entitlements are extinguished. However, given significant community opposition to the application of a sunset clause, this alternative approach is not considered appropriate. Through the application of appropriate minimum lot sizes as outlined in this planning proposal (see Appendix 5), existing parcels or holdings that are larger than the proposed minimum lot size now have dwelling entitlement through the lot size clause. This, in combination with the identification of certain parcels or holdings on the Dwelling Entitlement Map, significantly reduces

the number of complex dwelling entitlement searches that will have to be undertaken in the future. As noted above in the “rationale”, Council will continue to explore further means of simplifying and clarifying dwelling entitlements.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy*

The South Coast Regional Strategy states that local environmental plans will include provisions to limit dwellings in rural zones. The planning proposal ensures that existing dwelling entitlements are retained. The planning proposal is therefore considered to be consistent with the South Coast Regional Strategy.

4. *Is the planning proposal consistent with the Council’s local strategy or other local strategic plan*

The planning proposal implements Council’s Rural Lands Strategy.

5. *Is the planning proposal consistent with applicable state environmental planning policies?*

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP Rural Lands 2008 To facilitate the orderly and economic use and development of rural lands for rural and related purposes through the application of rural planning principles and rural subdivision principles.	Consistent See below.

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP (Rural Lands) 2008

This SEPP provides a number of rural planning principles, including the following:

- (f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- (g) *the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing.*

Consistent. As the planning proposal ensures the retention of existing dwelling entitlements, it is considered to be consistent with the Rural Planning Principles.

6. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?*

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
1.2 Rural Zones To protect the agricultural production value of rural land.	Consistent See below.
1.5 Rural Lands To protect the agricultural production value and facilitate the orderly and economic development of rural land.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

1.2 Rural Zones

This direction states that a planning proposal must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

Consistent. As the planning proposal ensures the retention of existing dwelling entitlements, it is considered to be consistent with this Direction.

1.5 Rural Lands

This direction states that a planning proposal must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

Consistent. As the planning proposal ensures the retention of existing dwelling entitlements, it is considered to be consistent with the Rural Planning Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

As, the planning proposal provides for no additional development beyond that which is permissible under ELEP 2012, it does not result in any additional potential impacts on environmentally sensitive areas.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

As, the planning proposal provides for no additional development beyond that which is permissible under ELEP 2012, it does not result in any other additional environmental effects.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The retention of existing dwelling entitlement provides social and economic benefits to land owners.

Section D – STATE and COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

Not relevant.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

During public exhibition of the draft Rural Lands Strategy, Council received submissions from the following NSW Government Agencies:

- Rural Fire Service
- Office of Environment and Heritage
- Department of Primary Industries – Water
- Department of Primary Industries – Fisheries
- Department of Industry – Mineral Resources
- South East Local Land Services
- Roads and Maritime Services
- Office of Environment and Heritage – Heritage Division.

None of the agency submissions specifically addressed this issue.

Appendix 4 – Justification for Item No. 4

Name of item	Intended Outcome
Introduce a new boundary adjustment clause	To increase the opportunities for boundary adjustments on certain lands.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. The planning proposal implements the following recommendation of the Rural Lands Strategy:

Action: That Council amend the Eurobodalla LEP 2012 to include the expanded boundary adjustment clause for rural land – an example of which is presented in the Wellington LEP 2012, Clause 4.2B.

Rationale: Occasionally, rural property owners seek to adjust common property boundaries to facilitate better land management for agriculture. For example one landowner may negotiate to buy a paddock from a neighbour.

The current provisions in the Eurobodalla LEP 2012 are those of the Standard Instrument and limit such subdivision if dwellings are involved on the subject land. The Department of Planning and Environment has now developed a model clause that allows such subdivision where dwellings are involved provided no additional dwelling opportunities or lots are created.

Clause 4.2B of the Wellington LEP 2012 is as follows:

4.2B Boundary changes between lots in certain rural, residential and environment protection zones

- (1) The objective of this clause is to permit the boundary between 2 or more lots to be altered in certain circumstances to give landowners a greater opportunity to achieve the objectives for development in a zone.
- (2) This clause applies to land in any of the following zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU3 Forestry,
 - (c) Zone RU4 Primary Production Small Lots,
 - (d) Zone R5 Large Lot Residential,
 - (e) Zone E1 National Parks and Nature Reserves,
 - (f) Zone E2 Environmental Conservation,
 - (g) Zone E3 Environmental Management.
- (3) Despite clause 4.1 (3), development consent may be granted to the subdivision of 2 or more adjoining lots comprised in land to which this clause applies if the subdivision will not result in any of the following:
 - (a) an increase in the number of lots,
 - (b) an increase in the number of dwellings or dual occupancies on (or dwellings or dual occupancies that may be erected on) any of the lots.

- (4) *Before determining a development application for the subdivision of land under this clause, the consent authority must consider the following:*
- (a) *the existing uses and approved uses of other land in the vicinity of the subdivision,*
 - (b) *whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,*
 - (c) *whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),*
 - (d) *whether or not the subdivision is likely to be incompatible with a use of land in any adjoining zone,*
 - (e) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),*
 - (f) *whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,*
 - (g) *whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.*
- (5) *This clause does not apply:*
- (a) *in relation to the subdivision of individual lots in a strata plan or a community title scheme, or*
 - (b) *if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.*

A new clause similar to the Wellington clause is proposed to be added to ELEP 2012, to apply to the RU1, RU3, RU4, E1 and E2 zones. The existing rural subdivision clause (4.2) is proposed to be retained as it is a compulsory clause and provides for a different form of rural subdivision.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Implementation of the model clause for boundary adjustments is the best means of achieving the intended outcome.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy*

The South Coast Regional Strategy states that the Department of Primary Industries (DPI) will work with councils to develop appropriate subdivision standards for rural zones, to be included in local environmental plans. The DPI were involved in the development of the Rural Lands Strategy through the Rural Lands Strategy Steering Committee. Given the proposed amendment provides for additional boundary adjustment opportunities for rural landowners, it is considered that the planning proposal achieves an appropriate subdivision standard and is therefore consistent with the South Coast Regional Strategy.

4. *Is the planning proposal consistent with the Council's local strategy or other local strategic plan*

The planning proposal implements Council's Rural Lands Strategy.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
<p>SEPP Rural Lands 2008 To facilitate the orderly and economic use and development of rural lands for rural and related purposes through the application of rural planning principles and rural subdivision principles.</p>	<p>Consistent See below.</p>

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP (Rural Lands) 2008

This SEPP provides a number of rural subdivision principles, including the following:

- (a) *the minimisation of rural land fragmentation,*
- (b) *the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses.*

Consistent. The planning proposal provides for additional boundary adjustment opportunities for rural landowners and does not increase rural land fragmentation or potential rural land use conflicts. It is therefore considered to be consistent with the Rural Subdivision Principles.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
<p>1.2 Rural Zones To protect the agricultural production value of rural land.</p>	<p>Consistent See below.</p>
<p>1.5 Rural Lands To protect the agricultural production value and facilitate the orderly and economic development of rural land.</p>	<p>Consistent See below.</p>
<p>2.1 Environment Protection Zones To protect and conserve environmentally sensitive areas.</p>	<p>Consistent See below.</p>
<p>4.4 Planning for Bushfire Protection To protect life, property and the environment from bush fire hazards.</p>	<p>Consistent See below.</p>
<p>5.1 Implementation of Regional Strategies To give legal effect to regional strategies.</p>	<p>Consistent See below.</p>

An assessment of applicable s.117 Directions against the planning proposal is provided below.

1.2 Rural Zones

This direction states that a planning proposal must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

Consistent. The planning proposal provides for additional boundary adjustment opportunities for rural landowners and does not increase the permissible density of rural land. It is therefore considered to be consistent with this Direction.

1.5 Rural Lands

This direction states that a planning proposal must be consistent with the Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

Consistent. The planning proposal provides for additional boundary adjustment opportunities for rural landowners and does not increase the permissible density of rural land. It is therefore considered to be consistent with the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

2.1 Environmental Protection Zones

This direction states that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. Further, it states that a planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land.

Consistent. The proposed additional clause will apply to environmental zones. A provision of the clause requires the consent authority to consider whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land. Given this is a required consideration for any development application for a boundary adjustment, the planning proposal is considered to be consistent with the direction.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The proposed additional clause will apply to environmental zones as well as rural zones. A provision of the clause requires the consent authority to consider whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land. Given this is included in the clause, it is not likely to result in potential impacts on environmentally sensitive areas.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The proposed additional clause will apply to environmental zones as well as rural zones. A provision of the clause requires the consent authority to consider whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land. Given this is included in the clause, it is not likely to result in other potential environmental effects.

9. Has the planning proposal adequately addressed any social and economic effects?

The proposed additional boundary adjustment opportunity provides social and economic benefits to land owners.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

Not relevant.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

During public exhibition of the draft Rural Lands Strategy, Council received submissions from the following NSW Government Agencies:

- Rural Fire Service
- Office of Environment and Heritage
- Department of Primary Industries – Water
- Department of Primary Industries – Fisheries
- Department of Industry – Mineral Resources
- South East Local Land Services
- Roads and Maritime Services
- Office of Environment and Heritage – Heritage Division.

None of the agency submissions specifically addressed this issue.

Appendix 5 – Justification for Item No. 5

Name of item	Intended Outcome
Amend Zoning and Minimum Lot Size Maps	To establish appropriate zoning and minimum lot sizes for certain rural land in accordance with the Rural Lands Strategy.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal changes the zoning and minimum lot size across a number of areas in accordance with the recommendations of the Eurobodalla Rural Lands Strategy 2016. Details of each area are provided in Volume 2 of this planning proposal. A summary of the proposed zoning and minimum lot size for each area is provided in the table below, along with the potential increase in the number of lots and dwellings that could be achieved in each area.

Area	Zone	Minimum lot size	Potential increase in lots and dwellings
1. Kings Hwy, Murrenengberg	RU1	200ha	Nil
1a. Kings Hwy, Currowan	RU1	40ha	Nil
2. Nelligen Creek Rd, West Nelligen	RU1	40ha	3 lots and 3 dwellings
3. Old Bolaro Road (south), West Nelligen	RU4	10ha	1 lot and 3 dwellings
3a. Old Bolaro Road (central), West Nelligen	RU4	5ha	1 lot and 5 dwellings
4. Currowan, Benandarah and East Lynne	RU1*	40ha*	4 lots and 6 dwellings
4a. Princes Hwy, Benandarah	RU4	40ha	1 lot and 3 dwellings
4b. South Durras	RU1*	40ha*	Nil
4c. Maloneys Beach	RU1	100ha	Nil
5. West Batemans Bay	RU1	40ha	Nil
6. North and West Mogo	RU4	20ha	7 dwellings
6a. Goba Lane, Mogo	RU1	40ha	Nil
7a. George Bass Drive (East), Malua Bay	E4	10ha	1 dwelling
7b. George Bass Drive (West), Malua Bay	RU1	40ha	1 lot and 2 dwellings
8. Dunns Creek Road (North), Woodlands	RU4	20ha	6 dwellings
8a. Tomakin Rd and Dunns Creek Rd (South), Woodlands	RU4	10ha	1 lot and 2 dwellings
8b. Tomakin Road, Mogo	RU4	20ha	3 lots and 3 dwellings
9. South Mogo	RU1	40ha	1 lot and 2 dwellings

9a. Maulbrooks Road, Mogo	RU4	10ha	1 dwelling
10. Jeremadra Grove and Goldfields Drive, Jeremadra	RU4	10ha	7 lots and 7 dwellings
10a. Springwater Road, Jeremadra and George Bass Drive, Broulee	RU1*	40ha*	1 lot and 3 dwellings
11. Broulee Road, Broulee	RU4	10ha	2 lots and 3 dwellings
11a. Broulee Road, Bimbimbie and Broulee	RU1*	100ha*	1 lot and 3 dwellings
12. Tomakin, Rosedale and Guerilla Bay	RU1*	40ha*	Nil
12a. George Bass Drive, Mossy Point	E4 and E2	1000m ² (E4)	19 lots and 20 dwellings
13. Clouts Road, Mogendaoura	RU1	100ha	2 dwellings
14. Hawdons Road, Mogendoura	RU1	40ha	4 lots and 6 dwellings
15. North Moruya	RU1*	100ha*	Nil
16. Meadows Road, Malabar Drive and Percy David Drive, North Moruya	RU4	10ha	6 lots and 7 dwellings
17. East Moruya	RU1*	40ha*	5 dwellings
17a. South Head Road, Moruya Heads	RU4*	40ha	1 dwelling
17b. Congo Road, Moruya Heads	RU1	100ha	1 lot and 1 dwelling
18. Congo Road (North), Congo	RU1	40ha	1 lot and 4 dwellings
18a. Berriman Drive, Congo	RU4	10ha	1 dwelling
18b. Congo Road (South), Congo	RU44	10ha	1 dwelling
18c. Meringo Road, Meringo	RU1	40ha	1 lot and 2 dwellings
19. Wamban Road (South), Wamban	RU1	500ha	Nil
20. Bergalia	RU1	100ha	1 lot and 8 dwellings
20a. Wamban Road (North), Wamban	RU1	100ha	Nil
21. Bingie Road, Bingie	RU4	20ha	1 lot and 15 dwellings
22. Prince Hwy (West), Coila and Turlinjah	RU1	20ha	4 lots and 5 dwellings
22a. Princes Hwy (East), Coila	RU1	40ha	Nil
22b. Kyla Park	RU1	100ha	Nil
22c. Princes Hwy (East), Turlinjah	RU1	40ha	1 dwelling
23. Potato Point Road (South), Bodalla and Potato Point	RU1	40ha	2 lots and 4 dwellings
24. Princes Hwy, South Bodalla	RU1	100ha	2 lots and 4 dwellings
25. Princes Hwy, North Bodalla & Blackfellows Point Road, Bodalla	RU1	40ha	1 lot and 5 dwellings
25a. Potato Point Road and Horse Island Road, Bodalla	RU1	20ha	6 lots and 10 dwellings
26. Bumbo Road (East) and Eurobodalla Road, Bodalla	RU1	200ha	Nil
26a. Bumbo Road (West), Bodalla	RU1	40ha	Nil

27. North Narooma and Kianga	RU1	40ha	6 lots and 8 dwellings
28. South Narooma	RU1	20ha	7 lots and 9 dwellings
29. Wagonga Scenic Drive, Narooma and Tebbs Road, Corunna	RU1	40ha	1 lots and 2 dwellings
30. Wagonga Scenic Drive, Narooma	RU4	5ha	11 lots and 17 dwellings
30a. Wagonga Scenic Drive, Narooma	RU4	2ha	7 lots and 8 dwellings
30b. Wagonga Scenic Drive, Narooma	RU4	10ha	2 lots and 3 dwellings
31. Shingle Hut Road, Narooma	RU1	100ha	1 dwelling
32. Central Tilba and Surrounds	RU1*	100ha*	4 dwellings
33. Dignams Creek Road, Dignams Creek	RU1	40ha	6 dwellings
34. Eurobodalla Road, Eurobodalla, Cadgee, Nerrigundah and Tinpot	RU1	100ha	12 dwellings
35. Belowra	RU1	500ha	Nil
36. Merricumbene and Deua	RU1	500ha	7 lots and 6 dwellings
37a. Araluen Road (North), Deua River Valley	RU1	40ha	1 lot and 1 dwelling
37b. Araluen Road (Central), Deua River Valley	RU1	20ha	3 dwellings
37c. Araluen Road (South), Wamban and Kiora	RU1	40ha	4 lots and 10 dwellings
38. Runnyford and Buckenbowra	RU1*	500ha*	3 dwellings
39. South Moruya	RU4	2ha	Nil
40. Turnbulla Lane, Moruya	RU4	5ha	Nil
41. South Nelligen	RU4	2ha	Nil
42. Hector McWilliam Drive, Tuross Head	RU1*	20ha*	Nil
TOTAL LOTS AND DWELLINGS			122 lots and 255 dwellings

* Some lots in these areas are proposed to have a different zone and/or lot size. See Volume 2 for details.

Summary of Potential increase in lot and dwelling yield in Eurobodalla's rural areas

The tables below provide a summary of the additional lot and dwelling potential due to the planning proposal. A table for each area identified in the Rural Lands Strategy is also provided in the detailed assessment for each area in Volume 2.

RU1 Summary

For all land currently zoned and proposed to be zoned RU1, the planning proposal provides for up to an additional 60 lots. This represents approximately 2% increase on the existing number of lots in the proposed RU1 areas.

In terms of dwellings, the planning proposal provides for up to an additional 141 dwellings on separate lots (not including the potential for dual occupancies). This represents approximately 14% increase on the existing number of dwellings in the proposed RU1 areas.

RU1 Summary Table

	Existing	Potential under current LEP	Potential under Rural Lands Strategy	Change from current LEP
Lots	2801	2803	2863	60
Dwellings	1044	1065*	1206	141

* The table does not consider all existing dwelling entitlements that may be available in this area, as not all existing dwelling entitlements are known. All existing dwelling entitlements are proposed to be retained.

E4/RU4 Summary

For all land proposed to be zoned E4 or RU4, the planning proposal provides for up to an additional 62 lots. This represents approximately 19% increase on the existing number of lots in the proposed E4 and RU4 areas.

In terms of dwellings, the planning proposal provides for up to an additional 114 dwellings on separate lots (not including the potential for dual occupancies). This represents approximately 47% increase on the existing number of dwellings in the proposed E4 and RU4 areas.

E4/ RU4 Summary Table

	Existing	Potential under current LEP	Potential under Rural Lands Strategy	Change from current LEP
Lots	319	321	383	62
Dwellings	242	265*	379	114

* The table does not consider all existing dwelling entitlements that may be available in this area, as not all existing dwelling entitlements are known. All existing dwelling entitlements are proposed to be retained.

Methodology for determining additional potential lots and dwellings: The number of existing lots was determined and it was noted whether there was an existing dwelling by looking at aerial photography. The potential for each existing lot to have a dwelling or be subdivided under the existing LEP relevant to the land was determined and compared with what could be achieved under the recommendations of the Rural Land Strategy. The change from the current LEP identifies the potential additional lots and dwellings that could result by implementing the recommendations of the Rural Land Strategy.

Note: The figures in the above tables relate only to land in private ownership, not to land owned by the Crown or Council.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Providing a zone and minimum lot size for land is the best means of achieving the intended outcome. There is no suitable alternative.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy*

The South Coast Regional Strategy states that “local environmental plans will include minimum subdivision standards for rural and environment protection zones” and “local environmental plans will include provisions to limit dwellings in rural and environmental zones”. The Strategy also states that “Councils will resist the fragmentation of agricultural land as this can threaten its economic performance and sustainability”.

The planning proposal provides for an appropriate zone and minimum lot size for rural land in the Eurobodalla Shire. In many areas, the zone and minimum lot size appropriately reflects the existing land use and subdivision pattern of the area. In other areas, a relatively small increase in lots and/or dwellings is provided for, in order to facilitate some additional agricultural and dwelling opportunities. Importantly, the most productive agricultural lands are protected from further fragmentation due to the application of larger minimum lot sizes. By providing appropriate minimum subdivision standards for rural land and the retention of existing dwelling entitlement clauses in the LEP, the planning proposal is consistent with the South Coast Regional Strategy.

4. *Is the planning proposal consistent with the Council’s local strategy or other local strategic plan*

The planning proposal implements Council’s Rural Lands Strategy.

5. *Is the planning proposal consistent with applicable state environmental planning policies?*

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP14 Coastal Wetlands To ensure that coastal wetlands are preserved and protected.	Consistent See below
SEPP62 Sustainable Aquaculture To encourage sustainable aquaculture and to provide minimum performance criteria for permissible aquaculture development.	Consistent See below
SEPP 71 Coastal Protection To further implement the NSW Government’s coastal policy.	Consistent See below
SEPP Rural Lands 2008 To facilitate the orderly and economic use and development of rural lands for rural and related purposes through the application of rural planning principles and rural subdivision principles.	Consistent See below
SEPP Mining, Petroleum and Extractive Industries 2007 To provide for the proper management and development of mineral, petroleum and extractive material resources.	Consistent See below

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 14 – Coastal Wetlands

SEPP 14 prohibits persons from clearing, constructing a levee, draining or filling land identified as a SEPP 14 wetland. In the SEPP, clearing means the destruction or removal in any manner of native plants growing on the land.

Consistent. Some rural areas contain or adjoin SEPP 14 wetlands. The planning proposal either maintains existing lot and dwelling yields in a particular area, or proposes a relatively small increase in lots and/or dwellings. Following an assessment of the potential development in each area, there are opportunities to carry out the potential additional development in locations more than 100m away from SEPP 14 wetlands to ensure there are no impacts. The planning proposal, for all areas, is therefore considered to be consistent with SEPP 14.

This SEPP applies to the following areas: 4, 4b, 4c, 5, 8a, 8b, 10, 10a, 11, 11a, 12, 12a, 14, 15, 16, 17, 17a, 17b, 18, 18c, 22, 22a, 22c, 24, 25, 25a, 26, 27, 28, 29, 32 and 38.

SEPP 62 – Sustainable Aquaculture

SEPP 62 provides for a range of aquaculture types to be permissible with or without consent in certain zones and requires the consideration of the effects of development on oyster aquaculture.

Consistent. The planning proposal is consistent with the SEPP as the majority of the land is proposed to be zoned RU1 or RU4 under ELP 2012, zones which already permit aquaculture with consent. Given the relatively small increase in lot and dwelling yield provided for in the planning proposal, it is not expected that there will be adverse impacts on oyster aquaculture in the relevant estuaries as a result of the planning proposal. In any case, potential impacts on oyster producing estuaries will be considered as part of any development application in the catchments.

For site specific justifications where relevant, refer to Volume 2 of this planning proposal (See areas 4, 8a, 8b, 9, 10, 10a, 16, 17, 17a, 17b, 22, 22c, 25, 25a, 27, 29, 32 and 38).

SEPP 71 – Coastal Protection

SEPP 71 provides the following matters for consideration for development in coastal areas:

- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (m) likely impacts of development on the water quality of coastal waterbodies.

Consistent: Some rural areas contain land within the Coastal Zone and some of this land is in a sensitive coastal location. Given the relatively small increase in lots and dwellings in areas within the coastal zone, the planning proposal is unlikely to result in any detrimental impacts on coastal processes or compromise the natural values of the areas and is therefore considered to be consistent with SEPP 71.

This SEPP applies to the following areas: 4, 4a, 4b, 4c, 5, 6, 7a, 7b, 8a, 8b, 9, 10, 10a, 11, 11a, 12, 12a, 15, 16, 17, 17a, 17b, 18, 18c, 20, 21, 22, 22a, 22b, 22c, 23, 24, 25, 25a, 26, 27, 28, 29, 32, 38, 41 and 42.

SEPP Rural Lands 2008

This SEPP provides a number of rural planning and subdivision principles, including the following:

Rural Planning Principles

- (a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- (e) *the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land*
- (f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*

- (g) *the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*

Rural Subdivision Principles

- (a) *the minimisation of rural land fragmentation,*
 (b) *the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses.*

Consistent. The planning proposal implements the Eurobodalla Rural Lands Strategy which was developed to be consistent with the rural planning and subdivision principles of the SEPP. In Eurobodalla’s most productive agricultural lands and the more remote rural lands, the planning proposal generally maintains the existing dwelling and lot yield to protect productive lands and avoid further development in the more constrained lands. In areas where the proposed reduced lot size facilitates some additional lot or dwelling yield, the planning proposal provides for a small, appropriate increase in agricultural and rural lifestyle opportunities in these areas, without causing adverse rural land fragmentation or land use conflicts. Across most areas, the proposed minimum lot size reflects the existing nature of holdings in each area. The planning proposal is therefore considered to be consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

SEPP (Mining, Petroleum Production and Extractive Industries) (2007)

This SEPP provides for extractive industries to be permissible with consent on any land where agriculture or industry may be carried out with or without consent.

Consistent. All of the areas that contain some extractive industry or an identified extractive resource are proposed to be zoned RU1 in which extensive agriculture is permitted without consent. Some areas adjoin land with an existing extractive industry or an identified resource. Where these areas provide for some additional development potential, there is opportunity to ensure adequate separation between any new development and the extractive industry or resource. The planning proposal is considered to be consistent with this SEPP.

This SEPP applies to the following areas: 2, 4c, 7b, 9, 10a, 11a, 14, 17, 20, 24, 27 and 34.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
1.2 Rural Zones To protect the agricultural production value of rural land.	Partly Consistent / Partly Inconsistent See below.
1.3 Mining, Petroleum and Extractive Industries To ensure future extraction of State or regionally significant reserves of extractive materials are not compromised by inappropriate development.	Consistent See below.
1.4 Oyster Aquaculture To ensure oyster aquaculture is considered and to minimise adverse impacts on water quality.	Consistent See below.
1.5 Rural Lands To protect the agricultural production value and facilitate the orderly and economic development of rural land.	Consistent See below.
2.1 Environment Protection Zones To protect and conserve environmentally sensitive areas.	Partly Consistent, Partly Inconsistent

	See below.
2.2 Coastal Protection To implement the principles in the NSW Coastal Policy.	Consistent See below.
2.3 Heritage Conservation To conserve items, areas, objects and places of environmental and indigenous heritage significance.	Consistent See below.
3.1 Residential Zones To encourage a variety of housing types, ensure access to appropriate infrastructure and services and minimise impacts on the environment and resource lands.	Consistent See below.
3.4 Integrating Land Use and Transport To ensure efficient and viable transport options, reduce dependence on cars, support public transport and provide for the efficient movement of freight.	Consistent See below.
4.1 Acid Sulfate Soils To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	Consistent See below.
4.3 Flood Prone Land To ensure development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy.	Consistent See below.
4.4 Planning for Bushfire Protection To protect life, property and the environment from bush fire hazards.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

1.2 Rural Zones

This direction states that a planning proposal must:

- (a) *not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.*
- (b) *not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).*

Consistent. In relation to (a) above, the planning proposal is consistent with the direction, as the vast majority of rural land in the Eurobodalla Shire is proposed to be zoned either RU1 or RU4. While a small proportion of rural land is proposed to be zoned E4 Environmental Living, the direction does not prevent rezoning land from a rural to an environmental zone.

In relation to (b) above, for a number of areas, the proposed minimum lot size will not result in any additional lots or dwellings and therefore will not increase the permissible density of the land. For these areas, the planning proposal is consistent with the direction.

This applies to the following areas: 1, 1a, 3, 3a, 4b, 4c, 5, 6a, 7a, 12, 15, 17a, 18b, 19, 20a, 22a, 22b, 26, 35, 39, 40, 41 and 42.

Inconsistent but justified by a study and of minor significance. The planning proposal implements the recommendations of the Rural Lands Strategy adopted by Council on 23 February 2016. The Rural Lands Strategy was prepared having regard to the objectives of this direction to “*protect the agricultural production value of rural land*”. The Strategy applies a “landscape approach” to identifying appropriate zones and minimum lot sizes for rural land that protects the most productive agricultural lands and facilitates additional small lot rural activities.

For areas where the proposed minimum lot size will facilitate an increase in the permissible density of the land, the proposed minimum lot size is considered appropriate for agricultural production in the

location. The relatively small number of lots and/or dwellings that may result from the planning proposal will facilitate some additional agricultural opportunities across the Eurobodalla. While for these areas the planning proposal is inconsistent with part (b) of the direction, the extent of inconsistency is minor and the planning proposal is considered to meet the objective of the direction “to protect the agricultural production value of rural land”.

This applies to the following areas: 2, 3a, 4, 4a, 6, 7b, 8, 8a, 8b, 9, 9a, 10, 10a, 11, 11a, 12a, 13, 14, 16, 17, 17b, 18, 18a, 18c, 20, 21, 22, 22c, 23, 24, 25, 25a, 26a, 27, 28, 29, 30, 30a, 30b, 31, 32, 33, 34, 36, 37a, 37b, 37c and 38.

1.3 Mining, Petroleum and Extractive Industries

This direction applies when a planning proposal that would have the effect of prohibiting mining, petroleum production or extractive industry or restricting such development by permitting a land use that is likely to be incompatible with such development.

Consistent. A number of areas contain or adjoin some extractive industry or an identified extractive resource. Where these areas provide for some additional development potential, there is opportunity to ensure adequate separation between any new development and the extractive industry or resource to avoid land use conflicts. The planning proposal is considered to be consistent with this direction.

For site specific justifications where relevant, refer to Volume 2 of this planning proposal (See areas 2, 4c, 7b, 9, 10a, 11a, 14, 17, 20, 24, 27 and 34).

1.4 Oyster Aquaculture

This direction states that a planning proposal must identify any proposed land uses which could result in any adverse impact on a Priority Oyster Aquaculture Area or oyster aquaculture leases outside such an area and consider any issues that are likely to lead to an incompatible use of land between oyster aquaculture and other land uses. It also states that the Director General of the Department of Primary Industries (DPI) must be consulted with and that the planning proposal must be consistent with the *NSW Oyster Industry Sustainable Aquaculture Strategy*.

Consistent. During the public exhibition of the draft Rural Lands Strategy, DPI made a submission that raised concerns with on-site sewerage management systems (OSMS) in rural residential areas, the suitability of land for intensive animal industries and unsealed roads in oyster producing estuaries. While the planning proposal proposes a modest increase in lots and dwellings in close proximity to some oyster producing estuaries, there are no additional rural residential areas proposed in such areas and the proposed zoning of land will not increase the potential for intensive animal industries to be developed. In any case, the potential impacts of development on oyster producing estuaries will be considered in the assessment of relevant development applications. Council will consult with DPI when this planning proposal is placed on public exhibition.

This direction applies to the following areas: 4, 8a, 8b, 9, 10, 10a, 16, 17, 17a, 17b, 22, 22c, 25, 25a, 27, 29, 32 and 38.

1.5 Rural Lands

This direction states that a planning proposal must be consistent with the Rural Planning Principles and Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

Consistent. The planning proposal is consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*. In some areas, the proposed reduction in minimum lot size will maintain existing agricultural and dwelling opportunities. In other areas, the proposed reduction in minimum lot size will facilitate a relatively small and appropriate increase in agricultural opportunities and/or dwelling opportunities. The planning proposal is considered to be consistent with this Direction.

2.1 Environment Protection Zones

This direction states that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. Further, it states that a planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land.

Partly Consistent / Partly Inconsistent but justified by a study and of minor significance. The planning proposal implements the recommendations of the Rural Lands Strategy adopted by Council on 23 February 2016. The Rural Lands Strategy was prepared having regard to the objectives of this direction to “*protect and conserve environmentally sensitive areas*”. The Strategy applies a “landscape approach” to identifying appropriate zones and minimum lot sizes for rural land that seeks to provide for potential additional development where there are opportunities on land that is not environmentally sensitive. Where some additional development potential is provided for in environmentally sensitive areas, the scale of additional development potential is small and it is considered that the impacts of such development is likely to be of minor significance.

The majority of land identified for environmental protection purposes in Eurobodalla under previous local environmental plans has already been appropriately zoned E2 Environmental Conservation in ELEP 2012. Some other areas were previously proposed to be zoned E3 Environmental Management but this zone was deferred from ELEP 2012. Land deferred from ELEP 2012 and is currently zoned under the RLEP 1987 includes some small areas of land zoned 7(a), 7(f1) and 7(f2), which are environmental zones (in areas 4c, 10a, 12, 12a, 17b, 18c, 23 and 32). This planning proposal includes some small areas of additional E2 and E4 zoning for some of these lands.

The 7(a) zone is a wetland zone and applies to some small areas at the edges of the mapped SEPP 14 wetlands that are currently zoned E2. In areas 10a and 12a, the land zoned 7(a) is proposed to be zoned E2 as the subject lot also contains a threatened ecological community and further development on a separate part of the lot is proposed to be facilitated. In areas 4c and 17b, no additional development will be facilitated by the planning proposal on the lots with the part 7(a) zoning. Given the E2 zoning of the SEPP 14 wetlands, the small size of the areas zoned 7(a) and that no additional development potential is being facilitated on the subject lots, the inconsistency with the Direction is considered to be justified in this instance.

The 7(f1) zone is an environmental protection zone for coastal lands. There are four areas with 7(f1) zones (areas 7a, 12, 18c and 32). In area 7a, an E4 Environmental Living zone is proposed and is therefore consistent with the Direction. In area 12, the 7(f1) zoned area is proposed to be zoned RU1 Primary Production which would result in no additional lots or dwellings being facilitated. The E4 zoning was not considered appropriate for this area as this would facilitate an additional four dwellings on existing vacant lots and potentially raise expectations for future subdivision similar to the adjoining

E4 zoned land at Guerilla Bay. On this basis, the inconsistency with the Direction is considered to be justified in this instance.

In areas 18c, the land zoned 7(f1) is a row of residential sized lots along Meringo Road, all but one of which has a dwelling. This land was identified in the Rural Lands Strategy to be zoned RU1 along with the surrounding rural land, however it is considered more appropriate to zone this land E4 Environmental Living. The planning proposal is therefore consistent with the Direction in relation to this area.

In area 32, there are three areas zoned 7(f1). For one of these areas, an E2 zone is proposed and this therefore consistent with the Direction. The other two areas are proposed to be zoned RU1 Primary Production which does not facilitate any additional lots or dwellings. On this basis, the inconsistency with the Direction is considered to be justified in this instance.

The 7(f2) zone is a coastal lands acquisition zone that seeks to maintain land as rural pending its acquisition by the State. There are two areas with 7(f2) zones (areas 7b and 23) that have not been acquired by the NSW Government and were not proposed to identified on the Land Acquisition Map in LEP 2012 for acquisition (the Draft LEP Maps exhibited in 2011 did not include these lands). On this basis it is considered appropriate to zone these lands RU1. Such zoning does not prevent the NSW Government from negotiating with the current land owner to acquire the subject land at a future date. On this basis, the inconsistency with the Direction is considered to be justified in this instance.

Other rural land in the Shire zoned 1(a) and 1(a1) are rural zones that have agricultural and environmental objectives. The environmental objectives of these zones relate to minimising development on land with environmental constraints or hazards and to protect water quality. These zones both permit extensive agriculture without consent. The most appropriate equivalent zone under the Standard Template LEP is RU1 Primary Production and in the main, this is the zone that is proposed to be applied to these lands. In some areas, the RU4 Primary Production Small Lots zone is proposed to be applied. In applying such zoning, consideration has been given to the principles of the Northern Councils E zone review (including consideration of the primary use of the land) and the Department of Planning's LEP Practice Note for Environment Protection Zones. Applying a rural zone to land currently zoned Rural 1(a) or 1(a1) is considered to be consistent with the Direction.

Environmental protections for rural land will be maintained through the relevant environmental legislation (currently the Threatened Species Conservation Act 1995 and the Native Vegetation Act 2003). For development that requires consent, environmental protections will be maintained through the provisions of the Environmental Planning and Assessment Act 1979 and through a Native Vegetation Map that will be included in planning documents (Development Control Plans (DCP), supported by a Council Code). The DCPs and Code will require further consideration of potential impacts to biodiversity prior to determining a development application on land to which the Development Control Plans apply. This will replace clause 6.6 (Biodiversity) and the associated Terrestrial Biodiversity Map in ELEP 2012 (refer to Appendix 7). In accordance with s5A and s79C of the *Environmental Planning and Assessment Act 1979*, Council must consider the significance of potential impacts by development on biodiversity listed under the *Threatened Species Conservation Act 1995* and other likely environmental impacts. Council will do this through the application of the aforementioned DCP and Code. On this basis, while the planning proposal is inconsistent with the terms of the direction, it is considered that the environmental protection standards that apply to the land in this area will effectively be maintained as a result of this planning proposal.

In their submission to the exhibition of a draft Rural Lands Strategy, the Office of Environment and Heritage (OEH) recommended E zones in locations that are not always consistent with the Northern Council's E zone review and further discussion in relation to the OEH submission is provided in the response to agency submissions for each area in Volume 2.

2.2 Coastal Protection

This Direction states that a planning proposal must include provisions that are consistent with the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, the *Coastal Design Guidelines 2003* and the *NSW Coastline Management Manual 1990*.

Consistent. Some rural areas contain land within the Coastal Zone and some of this land is in a sensitive coastal location. The planning proposal is unlikely to result in any detrimental impacts on coastal processes or compromise the natural values of the areas. The Eurobodalla Coastal Zone Management Plan is in preparation however the planning proposal is consistent with the Interim Coastal Hazard Adaptation Code.

This Direction applies to the following areas: 4, 4a, 4b, 4c, 5, 6, 7a, 7b, 8a, 8b, 9, 10, 10a, 11, 11a, 12, 12a, 15, 16, 17, 17a, 17b, 18, 18c, 20, 21, 22, 22a, 22b, 22c, 23, 24, 25, 25a, 26, 27, 28, 29, 32, 38, 41 and 42.

2.3 Heritage Conservation

This Direction states that a planning proposal must include provisions that facilitate conservation of items, areas, objects and places of environmental heritage significance and Aboriginal heritage significance.

Consistent. For some areas which are fully or partly deferred from ELEP 2012, with such areas zoned under the RLEP 1987, this planning proposal will repeal RLEP 1987 and bring all land under ELEP 2012. Clause 5.10 in the ELEP 2012 contains provisions that facilitate heritage conservation. The planning proposal does not change these provisions and Clause 5.10 would apply to all land in the Eurobodalla as a result of this planning proposal. Any potential impacts to heritage items, areas, objects and places of heritage significance would be assessed as part of the development application process.

For site specific justifications where relevant, refer to Volume 2 of this planning proposal (See areas 4, 4a, 6, 11a, 17a, 17b, 21, 22, 24, 27, 28, 29, 32, 33, 34, 36, 37c and 38).

3.1 Residential Zones

This Direction states that a planning proposal must contain provisions that encourage a variety and choice of housing types, make efficient use of existing infrastructure and services and minimise impacts of residential development on the environment and resource lands.

Consistent. There are two areas (Areas 39 and 40) where the zoning of land is proposed to be changed from a residential (R5) to a rural (RU4) zone. In both areas, the planning proposal does not change the density of land. Changing the zoning from R5 to RU4 does not change the current opportunities for housing types or affect access to infrastructure and services.

3.4 Integrating Land Use and Transport

This Direction states that a planning proposal must include provisions that give effect and are consistent with *Improving Transport choice – Guidelines for planning and development* (DUAP 2001) and *The right Place for Business and Services – Planning Policy* (DUAP 2001).

Consistent. In two areas (Areas 39 and 40), the planning proposal changes the zoning from residential (R5) to rural (RU4). The change in zoning would not change existing access to housing, jobs and services. The planning proposal is considered consistent with this Direction.

4.1 Acid Sulfate Soils

This Direction states that a planning proposal must consider the Acid Sulfate Soils Planning Guidelines and that a planning proposal must not intensify the land uses on land identified as having a probability of containing Acid Sulfate Soils.

Consistent. Some parts of some areas in the Eurobodalla are mapped as having the probability of Acid Sulfate Soils. The planning proposal is consistent with the *Acid Sulfate Soils Planning Guidelines (ASSMAC 1998)* and this Direction because it does not propose an intensification of land uses. Appendix 1 describes changes to permissible land uses as a result of this planning proposal. The listed land uses would not increase the likelihood of soil or groundwater disturbance in areas mapped as having a probability of Acid Sulfate Soils because they can be easily avoided and/or managed. Clause 6.3 of the ELEP 2012 that would apply to all land in the Eurobodalla as a result of this planning proposal would also ensure that Acid Sulfate Soils are considered during the development application process.

This Direction applies to the following areas: 4, 4b, 4c, 8a, 8b, 9, 10, 10a, 11, 11a, 12a, 14, 16, 17, 17a, 17b, 18, 18b, 18c, 20, 21, 29 and 32.

4.3 Flood Prone Land

This Direction states that a planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and principles of the *Floodplain Development Manual 2005*. It also states that a rural or environmental zone must not be rezoned to a residential, business, industrial, special use or special purpose zone and that a planning proposal must not contain provisions that apply to flood planning areas that:

- a) *Permit development in floodway areas,*
- b) *Permit development that will result in significant flood impacts to other properties,*
- c) *Permit a significant increase in the development of that land.*

Consistent. The planning proposal retains a rural zoning for the majority of rural land and proposes an appropriate minimum lot size for each area. The planning proposal does not rezone rural land to a residential, business, industrial, special use or special purpose zone and potential new development facilitated by the planning proposal can be located out of floodway areas. Where some additional development is permitted in areas which have some flood prone land, more detailed assessment is provided in Volume 2 of this planning proposal. As a result of this planning proposal, Clause 6.5 (Flood Planning) of the ELEP 2012 will apply to all land in the Eurobodalla and would ensure that the potential impacts of flooding is considered during the development application process.

For site specific justifications where relevant, refer to Volume 2 of this planning proposal (See areas 4, 6, 7a, 8a, 8b, 9, 10, 10a, 11, 11a, 12a, 14, 16, 17, 17a, 17b, 18, 18a, 20, 22, 24, 25, 25a, 27, 28, 29, 32, 37c and 38).

4.4 Planning for Bushfire Protection

This direction states that the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination for a planning proposal. Further, it states that a planning proposal must:

- a) *have regard to Planning for Bushfire Protection 2006,*
- b) *introduce controls that avoid placing inappropriate developments in hazardous areas, and*
- c) *ensure that bushfire hazard reduction is not prohibited within the APZ.*

Consistent. For some areas, as there is no potential increase in the number of people residing in the area as a result of the planning proposal, no further assessment against Planning for Bushfire Protection is warranted. For other areas, the potential increase in the number of people residing in the area is relatively small. It is considered that any proposed future development in these areas would be able to comply with the requirements of *Planning for Bush Fire Protection 2006*. Overall, the planning proposal is considered to be consistent with this Direction. Further consultation with the Rural Fire Service on the details of the planning proposal will be undertaken and comments made will be taken into considerations prior to finalising the planning proposal.

More detailed assessment where relevant is contained in Volume 2 of this planning proposal (See areas 2, 3, 3a, 4, 4a, 6, 7a, 7b, 8, 8a, 8b, 9, 9a, 10, 10a, 11, 11a, 12a, 13, 14, 16, 17, 17a, 17b, 18, 18a, 18b, 20, 21, 22, 22c, 23, 24, 25, 25a, 26a, 27, 28, 29, 30, 30a, 30b, 31, 32, 33, 34, 36, 37a, 37b, 37c and 38).

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Application of E2 and E3 Zones and Environmental Overlays in far North Coast LEPs

A new Ministerial Direction was issued on 2 March 2016. This new direction does not apply to Eurobodalla, however the Northern Councils E Zone Review Final Recommendations state that other Councils can apply the same principles. The direction states that a planning proposal that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone must apply the zones consistent with the Northern Councils E Zone Review Final Recommendations.

Comment. The planning proposal does not alter any existing E2 zone and does not introduce the E3 zone to the Eurobodalla LEP 2012. In a small number of areas, new E2 zones are proposed to be applied consistent with the recommendations of the Office of Environment and Heritage's submission to the draft Rural Lands Strategy. These relate mostly to public (Crown and Council) lands that have important environmental qualities.

The Northern Councils E Zone Review Final Recommendations Report recommends that E2 and E3 zones are only applied if the primary use of the land is considered to be Environmental Conservation (E2) or Environmental Management (E3) and meets the criteria presented in the recommendations report. The Report also recommends that land which is currently zoned rural will continue to have a rural zone, but if parts of that land have attributes that meet the criteria for an E2 or E3 zone, they should be included in a mapped planning control.

The planning proposal is consistent with the Final Recommendations Report as rural zoning is largely being maintained where the primary use of the land is considered to be rural (ie. used for agricultural activities, rural living, rural tourism, rural recreation purposes, etc). In addition, parts of rural land that have environmental qualities will be identified on a Native Vegetation Map that will be identified in a mapped planning control (in a DCP and Code) consistent with the Final Recommendations Report.

Other environmental attributes are already contained in a mapped planning control (eg. riparian areas and wetlands).

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

For areas where there is no new lot or dwelling yield, there are no likely impacts on sensitive environmental areas as a result of the planning proposal. For areas where some additional lot or dwelling yield is facilitated, a detailed assessment of the likely impacts on threatened species or populations, or their habitats is provided in Volume 2 of this planning proposal. In summary, for all areas, the likely impact is considered to be minor as the potential for native vegetation removal in addition to what is already permissible is minimal. In many areas, where additional development is possible, there are opportunities to avoid or minimise impacts on high quality vegetation. In any case, the significance of any potential impacts on sensitive environmental areas due to proposed development will be assessed during the development application process.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

For areas where there is no new lot or dwelling yield, there are no other likely environmental effects as a result of the planning proposal. For areas that contain or adjoin a SEPP 14 wetland, and where some additional lot or dwelling yield is facilitated, an assessment of the likely impact of that additional development potential on the SEPP 14 wetland is provided in Volume 2 of this planning proposal. For all areas, there is enough space for future dwellings to be sited away from the wetlands, and as a result the planning proposal is considered unlikely to result in adverse impacts on the SEPP 14 wetlands.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The planning proposal provides for positive social and economic outcomes for rural land in Eurobodalla Shire through the adoption of more flexible land use planning tables and the additional agricultural, tourism and dwelling opportunities provided across the rural areas.

Section D – STATE and COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

For areas where there is no new lot or dwelling yield, there will be no impact on existing public infrastructure as a result of the planning proposal. For areas where some additional lot or dwelling yield is facilitated, it is considered that there is adequate public infrastructure to support the relatively small additional development potential. In particular, the additional development potential is unlikely to warrant any increase in the level of rural road maintenance across the Eurobodalla Shire. Further, proposed minimum lot sizes are large enough to facilitate on site sewerage management.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

During public exhibition of the draft Rural Lands Strategy, Council received submissions from the following NSW Government Agencies:

- Rural Fire Service
- Office of Environment and Heritage
- Department of Primary Industries – Water
- Department of Primary Industries – Fisheries
- Department of Industry – Mineral Resources
- South East Local Land Services
- Roads and Maritime Services
- Office of Environment and Heritage – Heritage Division.

The Rural Fire Service noted that additional dwelling densities in remote and/or heavily timbered areas will require a thorough assessment of the likely impacts, including matters for bush fire protection. Where the planning proposal proposes no additional dwelling density in an area, no further assessment is required. Where the planning proposal does increase the dwelling density in an area, an assessment of the likely impacts of the additional dwellings provided for has been undertaken and is addressed in Volume 2 of this planning proposal.

The Office of Environment and Heritage’s detailed submission identified specific sites across rural areas of the Shire recommending certain development and zoning outcomes. Volume 2 of this planning proposal provides a detailed response to each site identified in the OEH submission. In summary, OEH have raised no objection to applying a rural zone to the western rural areas of Eurobodalla, but have recommended an E zoning for certain lands in Eurobodalla’s eastern rural areas. In terms of development outcomes, OEH have identified specific areas where they recommend no further subdivision or development. In many areas, this planning proposal is consistent with the OEH recommendations. Where the planning proposal is inconsistent with the OEH recommendations, the inconsistency is considered minor or otherwise justified (refer to Volume 2).

The Department of Primary Industries (DPI Fisheries) noted that the Rural Lands Strategy uses minimum lot size as a means of controlling the density of onsite sewerage management schemes (OSMS) in rural residential areas on the basis of cumulative impacts, however an arbitrary minimum lot size (2ha) may not take into account the specific constraints relevant to oyster producing estuaries. The Rural Lands Strategy does not use an arbitrary minimum lot size, but rather uses a “landscape approach” to minimum lot size across Eurobodalla’s rural lands. The proposed minimum lot size varies depending on a range of factors including environmental constraints of the land. In any case, development applications for subdivision in catchments of oyster producing areas will need to be assessed having regard to the ability of the proposed lots to accommodate on site effluent without detrimentally impacting on water quality.

The Department of Primary Industries (DPI Water) states that the creation of opportunities to allow a further supply of small farm and hobby agriculture, additional rural living opportunities and growth in rural tourism will place greater demands on the Eurobodalla’s water resources. DPI recommends that, when considering any future rezonings and/or expanding rural industries, Council should consider the options available for water supply and only endorse proposals if feasible, sustainable water supplies are available. This planning proposal provides for approximately 120 additional lots and 250 additional dwellings across the rural areas of the Shire. In the context of approximately 3100 lots and 1300 dwellings currently existing in Eurobodalla’s rural areas, the potential increase is considered minor and unlikely to have a significant impact on water resources. While the Rural Lands Strategy and this planning proposal encourages and facilitates additional agricultural and rural tourism activities, these

land uses are currently permissible on rural land. The Rural Lands Strategy acknowledges there are potential issues relating to water supply in the Eurobodalla and makes appropriate recommendations in relation to these issues. Those recommendations do not relate to LEP matters.

The Roads and Maritime Services (RMS) have noted that in RU1 areas with poor access, the Rural Lands Strategy proposes to implement larger minimum lot sizes and that this is in line with RMS' practice of reducing access density to classified roads where possible. RMS also notes that it is proposed to encourage activities such as roadside stalls and the potential development of a guideline. RMS would not support such a proposal unless there were appropriate provisions to ensure that the vehicular access and parking arrangements were adequate. Council will consult with the RMS in the preparation of such a guideline and in the assessment of any development application for a roadside stall on a classified road. The RMS also suggest that Council make provisions for developer funding of any required road/transport infrastructure that may be required as a result of any additional development in the area. Council acknowledges this suggestion, however the relatively low scale and scattered nature of the potential additional development in rural areas does not justify any specific development contribution plan being prepared at this stage.

South East Local Land Services (SELLS) noted that clearing for subdivision, particularly on small land parcels less than 100ha, can result in large amounts of clearing (for dwellings, effluent management, asset protection zones, fence lines and roads). The cumulative impact of such clearing should be carefully considered. SELLS appreciates that there will be constraints on the number of additional lots based on issues such as access, terrain and bushfire hazard, however, recommend that planning for subdivisions minimises the impact on intact native vegetation. In many areas, this planning proposal proposes a very small number of additional lots or houses, or no new lots or houses, and will therefore result in minimal clearing. In other areas, due to the relatively large lot sizes proposed across rural areas, there are opportunities for additional development without the need for significant clearing. This can be achieved through the use of existing cleared sites where available. Where some clearing may be required, it is unlikely to have a substantial impact on wildlife connectivity and areas of high conservation value. Volume 2 of this planning proposal provides a detailed assessment of the impact of the potential additional lots and dwellings in each area identified in the Rural Lands Strategy.

Any agency comments that are specific to each area, in particular those from OEH, are addressed in Volume 2 of this planning proposal.

Appendix 6 – Justification for Item No. 6

Name of item	Intended Outcome
Amend Minimum Lot Size Maps	To delete the 1000ha minimum lot size from all land not addressed in item 5.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. This appendix results from the implementation of other recommendations of the Rural Lands Strategy.

The changes to the minimum lot sizes for rural land are intended to remove the current 1000ha minimum lot size and to replace it with specific minimum lot sizes relevant to each area (a landscape approach). The Rural Lands Strategy did not specifically address other land in Eurobodalla that also currently has a minimum lot size of 1000ha. This applies to land in rural and urban areas that have an environmental (E2), special purpose (SP2) or recreation (RE1, RE2) zone in the Eurobodalla Local Environmental Plan 2012.

Given the aim is to remove the 1000ha minimum lot size completely from ELEP 2012, there is a need to consider the appropriate minimum lot size for other land that currently has a 1000ha standard. A review of land zoning and minimum lot size in Bega Valley and Shoalhaven Councils has found that, in the main, there is no minimum lot size for lands zoned E2 or for land with a special purpose or recreation zoning.

It is noted that the application of a minimum lot size to land zoned E2, SP2, RE1 and RE2 across the Eurobodalla is not consistent, with some land in these zones having no minimum lot size. It is proposed that there be no minimum lot size for these lands, so that any development application for subdivision is considered on its merits and not limited by any arbitrary development standard.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Removing the minimum lot size for land zoned E2, SP2 RE1 and RE2, where the current standard is 1000ha, from the Minimum Lot Size Map is the best means of achieving the intended outcome. There is no suitable alternative.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The South Coast Regional Strategy states that “local environmental plans will include minimum subdivision standards for rural and environment protection zones”. Whilst the planning proposal proposes the removal of a minimum lot size for land zoned E2, under a separate planning proposal for amendments to ELEP 2012, it is proposed to introduce a clause relating to minimum lot sizes for certain split zones that removes the need to apply a minimum lot size to the E2 zone. This is relevant

as the vast majority of land with an E2 zoning also has a rural zoning and therefore the proposed “split zones clause” will apply to most E2 zoned areas. Properties that are wholly zoned E2 are most commonly Council or Crown Land, for which any proposed subdivision would need to be consistent with a Plan of Management or other regulatory instrument and be the subject of a public consultation process.

The proposed clause will be similar to clause 4.1A in the Wollongong LEP 2009, which is reproduced below:

4.1A Minimum lots sizes for certain split zones

(1) *The objectives of this clause are as follows:*

- (a) *to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1,*
- (b) *to ensure that the subdivision occurs in a manner that promotes suitable land uses and development.*

(2) *This clause applies to each lot (an original lot) that contains:*

- (a) *land in a residential, business or industrial zone or in Zone E4 Environmental Living, and*
- (b) *land in a rural zone or Zone E2 Environmental Conservation or Zone E3 Environmental Management.*

(3) *Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the resulting lots) if:*

- (a) *one of the resulting lots will contain:*
 - (i) *land in a residential, business or industrial zone that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and*
 - (ii) *all of the land in a rural zone, Zone E2 Environmental Conservation or Zone E3 Environmental Management that was in the original lot, and*
- (b) *all other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.*

Sub-clause (3)(a) requires that all of an E2 zoned area be included in lot that contains land in an adjoining zone and that is not less than the minimum lot size for that adjoining land (excluding the area of the E2 zoned land). This ensures that there is no further subdivision of the E2 zoned area. On this basis, the planning proposal is considered to be consistent with the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council’s local strategy or other local strategic plan

The planning proposal implements Council’s Rural Lands Strategy.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
<p>SEPP Rural Lands 2008 To facilitate the orderly and economic use and development of rural lands for rural and related purposes through the application of rural planning principles and rural subdivision principles.</p>	<p>Consistent See below.</p>

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP (Rural Lands) 2008

This SEPP provides a number of rural planning and subdivision principles, including the following:

Rural Planning Principles

- (d) *In planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (e) *The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*

Rural Subdivision Principles

- (d) *the consideration of the natural and physical constraints and opportunities of land,*
- (e) *ensuring that planning for dwelling opportunities takes account of those constraints.*

Consistent. The planning proposal, in conjunction with the introduction of a minimum lot size for split zones clause under a separate planning proposal, is consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
1.5 Rural Lands To protect the agricultural production value and facilitate the orderly and economic development or rural land.	Consistent See below.
2.1 Environment Protection Zones To protect and conserve environmentally sensitive areas.	Inconsistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

1.5 Rural Lands

This direction states that a planning proposal must be consistent with the Rural Planning Principles and Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

Consistent. The planning proposal, in conjunction with the introduction of a minimum lot size for split zones clause under a separate planning proposal, is consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

2.1 Environment Protection Zones

This direction states that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. Further, it states that a planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land.

Inconsistent, but of minor significance. This planning proposal is to remove the minimum lot size for certain land zoned E2. While the current minimum lot size for such lands (1000ha) effectively prevents subdivision, the introduction of a minimum lot size for split zones clause under a separate planning proposal will ensure that the objectives of limiting the subdivision of most E2 zones will remain. In

relation to lands that are wholly zoned E2, these lands are in public ownership (such as coastal foreshores) and any future subdivision would generally be for a public purpose and would be considered on its merits. Given the above, it is considered that the planning proposal is appropriate and the inconsistency with the Ministerial Direction is considered justified on the grounds that it is minor in nature.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No. The removal of the minimum lot size for E2, SP2, RE1 and RE2 zoned land will not have adverse impacts on critical habitat, threatened species, populations or ecological communities, or their habitats.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The planning proposal will have not social and economic effects.

Section D – STATE and COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

The planning proposal will have no impact on public infrastructure.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 7 – Justification for Item No. 7

Name of item	Intended Outcome
Remove Terrestrial Biodiversity Maps and delete Clause 6.6	To remove the existing Terrestrial Biodiversity Map and delete the associated clause 6.6.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. The planning proposal implements the following recommendation of the Rural Lands Strategy:

Action: *That Council retain a Native Vegetation overlay but limit it to definition of extant native vegetation and place this overlay in a Code that is referenced in relevant DCPs. (A map of the proposed overlay forms Map 6 in Volume Three.)*

Rationale: *Retention of an overlay that depicts native vegetation of some significance is considered important for the following reasons:*

- *If Council is not to have an E3 zone over more sensitive rural lands, then some definition of lands with possible environmental constraint in terms of development assessment requirements, is warranted.*
- *The overlay is a more flexible approach allowing merit assessment of development proposal in areas of native vegetation.*
- *The overlay is only triggered in circumstances where development consent of Council is required. It does not constrain normal agricultural practices carried out under the exempt development provisions for agriculture.*
- *The presentation of an overlay in the LEP or in a Code and referenced in relevant DCPs is transparent and discoverable by most prudent land owners. Council has resolved that a Native Vegetation overlay be housed in a Code and referenced in relevant DCPs.*
- *Most Coastal and Tableland Councils have some form of native vegetation overlay and there is little evidence of any significant negative impact on landowners in these council areas to date.*

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Removing the Terrestrial Biodiversity Map from ELEP 2012 and removing clause 6.6 of the LEP accordingly is the best means of achieving the objectives of the planning proposal.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy*

While the South Coast Regional Strategy (SCRS) pre-dates the Standard Instrument for LEPs that introduced map overlays, such as the Terrestrial Biodiversity Map, it does contain some relevant actions for Councils to address, including the following:

- *Councils will consider the Regional Conservation Plan prepared by the Department of Environment and Conservation to guide implementation of conservation outcomes.*
- *Require local environmental plans to protect regionally significant corridors shown as ‘Indicative Habitat Corridors’ on Map 2.*

The SCRS provides advice to Councils on the use of the new LEP template to protect biodiversity assets, including:

- Applying environmental zones
- Applying additional local clauses – *“these may include provisions, with an accompanying map, addressing major biodiversity issues”*

Council has considered the South Coast Regional Conservation Plan (SCRCP). The SCRS and SCRCP do not require the use of a Terrestrial Biodiversity Map overlay in the LEP. Therefore, the action in the SCRS requiring LEPs to protect regionally significant corridors need not be by way of a map overlay in the LEP. The LEP can protect regionally significant corridors through other means, such as through the application of an appropriate minimum lot size. The planning proposal protects areas shown on the current Terrestrial Biodiversity Map as “biocorridor” by applying an appropriate rural zoning and a lot size that minimises subdivision and dwelling potential in these areas.

Further, in relation to the protection of regional corridors, the SCRS states that *“the minimum requirement is to protect the existing vegetation in these areas”*. Renaming the Terrestrial Biodiversity Map to the Native Vegetation Map and transferring it to a Code that is referenced in relevant Development Control Plans will continue the protection of existing native vegetation of high conservation value in the Eurobodalla through planning controls (including the existing vegetation in regionally significant corridors). Threatened species, populations and ecological communities are also protected under the NSW Threatened Species Conservation Act 1995 and the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999. The planning proposal is therefore considered to be consistent with the SCRS and SCRCP.

4. *Is the planning proposal consistent with the Council’s local strategy or other local strategic plan*

The planning proposal implements Council’s Rural Lands Strategy.

5. *Is the planning proposal consistent with applicable state environmental planning policies?*

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
<p>SEPP Rural Lands 2008 To facilitate the orderly and economic use and development of rural lands for rural and related purposes through the application of rural planning principles and rural subdivision principles.</p>	<p>Consistent See below.</p>

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP (Rural Lands) 2008

This SEPP provides a number of rural planning and subdivision principles, including the following:

Rural Planning Principles

- (d) *In planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (e) *The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*

Rural Subdivision Principles

- (d) *the consideration of the natural and physical constraints and opportunities of land,*
- (e) *ensuring that planning for dwelling opportunities takes account of those constraints.*

Consistent. Council’s proposal to rename the Terrestrial Biodiversity Map (to the Native Vegetation Map) and transfer it to a Code that is referenced in relevant Development Control Plans is considered sufficient to ensure the planning proposal is consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
1.5 Rural Lands To protect the agricultural production value and facilitate the orderly and economic development or rural land.	Consistent See below.
2.1 Environment Protection Zones To protect and conserve environmentally sensitive areas.	Inconsistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

1.5 Rural Lands

This direction states that a planning proposal must be consistent with the Rural Planning Principles and Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

Consistent. Council’s proposal to rename the Terrestrial Biodiversity Map (to the Native Vegetation Map) and transfer it to a Code that is referenced in relevant Development Control Plans is considered sufficient to ensure the planning proposal is consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

2.1 Environment Protection Zones

This direction states that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. Further, it states that a planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land.

Inconsistent but justified by a study and of minor significance. While this planning proposal proposes the removal of the Terrestrial Biodiversity Map from ELEP 2012, it is to be replicated as a Native Vegetation Map in a Council Code and referenced in relevant Development Control Plans.

As a result, Clause 6.6 of ELEP 2012 is proposed to be deleted and replicated in Development Control Plans. This provision will be amended to refer to the Native Vegetation Map contained in a Council Code. In the assessment of development applications, Council will refer to the Native Vegetation Map in the same way as it currently refers to the Terrestrial Biodiversity Map. On this basis, while the planning proposal is inconsistent with the terms of the direction, it is considered that the environmental protection standards that apply to the land in this area will effectively be maintained as a result of this planning proposal.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Application of E2 and E3 Zones and Environmental Overlays in far North Coast LEPs

A new Ministerial Direction was issued on 2 March 2016. This new direction does not apply to Eurobodalla, however it provides some relevant guidance to the application of overlays in LEPs. The direction states that a planning proposal that introduces or alters an overlay and associated clause must apply the overlay and clause consistent with the Northern Councils E Zone Review Final Recommendations.

Comment. The planning proposal removes the Terrestrial Biodiversity overlay and associated clause from ELEP 2012. A new planning control and map will be included in a separate planning instrument (a Development Control Plan, supported by a Council Code), consistent with the Final Recommendations Report.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No. The proposed Native Vegetation Map and the environmental data that underpins the map will continue to be used in the assessment of development applications in the same way as the current Terrestrial Biodiversity Map is currently used. The Native Vegetation Map is based on current data from OEH (High Conservation Value Mapping) prepared as part of developing the Rural Lands Strategy and applies to existing native vegetation of high conservation value.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No. The proposed Native Vegetation Map and the environmental data that underpins the map will continue to be used in the assessment of development applications in the same way as the current Terrestrial Biodiversity Map is currently used.

9. Has the planning proposal adequately addressed any social and economic effects?

The planning proposal will have no social or economic effects.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

The planning proposal will have no impact on public infrastructure.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

During public exhibition of the draft Rural Lands Strategy, Council received submissions from the following NSW Government Agencies:

- Rural Fire Service
- Office of Environment and Heritage
- Department of Primary Industries – Water
- Department of Primary Industries – Fisheries
- Department of Industry – Mineral Resources
- South East Local Land Services
- Roads and Maritime Services
- Office of Environment and Heritage – Heritage Division.

OEH advised that it supports the Terrestrial Biodiversity Maps in the current format in the LEP and argues that the Rural Lands Strategy is, on the whole, inconsistent with s.117 Direction 2.1 regarding Environmental Protection zones. Council is of the view that, while the planning proposal contains elements that are inconsistent with the terms of Direction 2.1, the inconsistency is justified on the grounds that the map and clause currently in the LEP will be replicated in a Code and relevant DCPs and will continue to be used in the assessment of development applications.

The Rural Fire Service has advised that it supports the appropriate use of overlays and their supporting clauses in the LEP to identify and protect areas of high conservation value. While the planning proposal proposes the renaming and relocation of the Terrestrial Biodiversity Map to a Code and referenced in relevant DCPs, the Map will still be available to existing and prospective land owners and Council to identify and protect areas of high conservation value.

South East Local Land Services (SELLS) has advised that the adoption of accurate overlays is essential in identifying areas warranting through assessment given E zones are not to be used extensively. SELLS considers that the combined use of appropriate land zoning and overlays provides landholders with optimal levels of certainty, flexibility and realistic expectations for development. While the planning proposal proposes the removal of the Terrestrial Biodiversity Map from the LEP, a revised Native Vegetation Map is still to be used by Council in assessing development applications (through a Code and referenced in relevant Development Control Plans). The Native Vegetation Map will still be available to existing and prospective land owners and developers and can be used to design appropriate development proposals. SELLS is concerned that the proposed Native Vegetation Map will not separately identify EECs and biocorridors. The principal reason for not separately identifying EECs on the Native Vegetation Map is that it is difficult to accurately define the boundaries of EECs

without detailed studies and ground truthing. Areas containing known EECs are mapped in Council's databases and is currently available on Council's web site for use by land owners as a guide to the type of vegetation communities on their land. In relation to biocorridors, the Rural Lands Strategy identifies that they are only options and that better alternatives may be resolved through specific planning proposals or development applications for more intensive developments. For this reason, they are proposed to be removed from the Native Vegetation Map.

Appendix 8 – Justification for Item No. 8

Name of item	Intended Outcome
Amend Dwelling Entitlement Maps	To identify additional properties that have dwelling entitlements, including those that would have been removed due to the deletion of the “sealed road’ provision in clause 4.2A, those in the deferred matter and at the request of the land owner. In addition, it is proposed to amend the maps to more clearly identify properties that have dwelling entitlement.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. This appendix results from the implementation of other recommendations of the Rural Lands Strategy. The following tables identify the lots to be included on, or removed from, the Dwelling Entitlement Map:

Lots to be included on the Dwelling Entitlement Map (due to inclusion of deferred lands)

Lot and DP	Property Address
Lot 20, DP 752128	2017 Belowra Road, Belowra
Lots 15, 16, 18 and 19, DP 755908	Hanns Road, Buckenbowra
Lots 8 and 9, DP 755933, Lots 8-10, DP 879124, Lot 1 DP 122525 and Lot 1 DP 122526	Old Nelligen Road, Nelligen
Lot 15, DP 755933, Lots 11-13, DP 879124 and Lot 1, DP 122520	Old Nelligen Road, Nelligen
Lots 32 and 33, DP 752135	Eurobodalla Road, Nerrigundah
Lots 248, 249, 152 and 153, DP 752155	Dignams Creek Road, Dignams Creek
Lots 1, 12 and 154, DP 752137 (in addition to Lots 2 and 3, DP 752137)	Congo Road, Congo
Note: Lot 269 DP 752137, which is a part of the subject holding is now proposed to be zoned RU4 Primary Production Small Lots which facilitates the erection of a dwelling with development consent on that lot. As the erection of a dwelling on Lot 269 could have the unintended consequence of fulfilling the dwelling entitlement over the whole holding, it is considered fair and reasonable to retain a dwelling entitlement over the remainder of the holding.	
Lot 7, DP 716697 and Lots 110 and 167, DP 752137	Beashels Lane, Bergalia
Lots 36 and 302 DP 752129	Dwyers Creek Road, Bergalia
Lot 2, DP 1056790	Kings Highway, Nelligen
Lots 25 and 121, DP 752156	Eurobodalla Road, Cadgee
Lot 4, DP 752147	Gulph Creek Road, Nerrigundah
Lot 781, DP815147	9273 Princes Highway, Tilba Tilba
Lot 2, DP 1017506	Corkhill Drive, Tilba Tilba
Lots 224, 225, 263 and 461, DP 752155	Punkalla Tilba Road, Central Tilba

Lots to be included on the Dwelling Entitlement Map (due to deletion of the sealed road clause)

Lot and DP	Property Address
Lot 2, DP 1196461	Sherringham Lane, Central Tilba
Lot 3, DP 1196461	Princes Highway, Central Tilba
Lot 401, DP 1132410	Princes Highway, Central Tilba
Lot 3, DP 1156220	Eurobodalla Road, Eurobodalla
Lot 1, DP 124914	Bingie Road, Bergalia

Lots to be included on the Dwelling Entitlement Map (due to land owner's request)

Lot and DP	Property Address
Lot 1, DP 125497	Princes Highway, Coila
Lot 41, DP 752131	Horse Island Road, Bodalla

Lots to be removed from the Dwelling Entitlement Map due to land not being zoned RU1 or land no longer defined as a holding

Lot and DP	Property Address
Lots 2 and 4 DP 807062	Dunns Creek Road, Woodlands
Lot 8, DP 1021825	33 Noble Parade, Dalmeny
Lots 14, 46 and part Lot 25, DP 755938 and part Lot 133, DP 755969	Runnyford Road, Runnyford

In addition to identifying land with a dwelling entitlement on the Dwelling Entitlement Map, it is proposed to amend the Dwelling Entitlement Map to more clearly identify which lots have a dwelling entitlement. The maps in their current form are not clear, particularly in identifying circumstances where a number of adjoining lots together have one dwelling entitlement. It is proposed this be clarified by the inclusion on the map of a line that defines the exact boundaries of single or adjoining properties (holdings) that have a dwelling entitlement.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending the Dwelling Entitlement Map is the best means of identifying properties that have a dwelling entitlement to be retained. There is no alternative means.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK**3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy**

The South Coast Regional Strategy requires local environmental plans to include provisions to limit dwellings in rural zones. ELEP 2012 already contains dwelling entitlement provisions for the RU1 zone, including the identification of properties with a dwelling entitlement on the Dwelling Entitlement Map. The planning proposal is consistent with the existing LEP provisions for dwelling entitlements in rural areas and is therefore considered to be consistent with the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council’s local strategy or other local strategic plan

The planning proposal implements Council’s Rural Lands Strategy.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP Rural Lands 2008 To facilitate the orderly and economic use and development of rural lands for rural and related purposes through the application of rural planning principles and rural subdivision principles.	Consistent See below.

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP (Rural Lands) 2008

This SEPP provides a number of rural planning and subdivision principles, including the following:

Rural Planning Principles

(f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*

(g) *the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*

Rural Subdivision Principles

(b) *the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses.*

Consistent. The planning proposal retains existing lawful dwelling entitlements in rural areas by identifying them on the Dwelling Entitlements Map. The proposal is therefore consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
1.2 Rural Zones To protect the agricultural production value of rural land.	Consistent See below.
1.5 Rural Lands To protect the agricultural production value and facilitate the orderly and economic development of rural land.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

1.2 Rural Zones

This direction states that a planning proposal must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

Consistent. The planning proposal retains existing dwelling entitlements in rural areas and is therefore considered to be consistent with this Direction.

1.5 Rural Lands

This direction states that a planning proposal must be consistent with the Rural Planning Principles and Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

Consistent. As the planning proposal retains existing dwelling entitlements in rural areas, it is consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The planning proposal will have no social or economic effects.

Section D – STATE and COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

The planning proposal will have no impact on public infrastructure.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 9 – Justification for Item No. 9

Name of item	Intended Outcome
Amend Height of Buildings Maps	To apply a maximum height of buildings to land proposed to be zoned E4 and RU4.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. This appendix results from the implementation of other recommendations of the Rural Lands Strategy. The Rural Lands Strategy proposes some land to be rezoned from RU1 (or 1(a) under the Rural LEP 1987) to E4 or RU4. To ensure consistency with other land zoned E4 and RU4 in the Eurobodalla Shire, a maximum height of buildings of 8.5m is proposed to be applied to these lands.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending the Height of Buildings Map is the best means of applying a maximum building height to certain land. There is no alternative means.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The South Coast Regional Strategy does not have a specific action relating to building height in rural areas. It does however refer to preserving the scale, character and cultural heritage of rural areas. The planning proposal is consistent with this statement in the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council's local strategy or other local strategic plan

The planning proposal implements Council's Rural Lands Strategy.

5. Is the planning proposal consistent with applicable state environmental planning policies?

There are no SEPPs applicable to this item.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The planning proposal will have no social or economic effects.

Section D – STATE and COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

The planning proposal will have no impacts on public infrastructure.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 10 – Justification for Item No. 10

Name of item	Intended Outcome
Amend Schedule 5 and Heritage Maps	To transfer items of environmental heritage on land in the deferred matter from the Rural Local Environmental Plan 1987 to the ELEP 2012.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. This appendix results from the implementation of other recommendations of the Rural Lands Strategy. The Rural Lands Strategy proposes the repeal of the Rural LEP 1987. Therefore, all heritage items under RLEP 1987 need to be transferred to ELEP 2012. Further, the Heritage Map may need to be amended where lots with heritage items currently have some deferred matter. The following table identifies the proposed changes to Schedule 5 of ELEP 2012 and the Heritage Maps.

Item Name in RLEP 1987 / ELEP 2012	Existing / Proposed Item No.	Schedule 5 Changes	Heritage Map Changes
Sutherland Babies' Grave	112	Omit the word "site" from the item name.	Map whole of lot
Bridle track network (called Bendethera Bridle Tracks in ELEP 2012)	113	Omit item from suburb Deua River Valley. Add DP 755945 to item in suburb Deua. Add Lot 96 DP752128 to item in suburb Belowra. Change suburb description for each listing of this item to "Belowra (see also Deua)" and "Deua (See also Belowra)".	Map missing section within Lot 96 DP 752128
Heinrich Thomsen's grave	151	Nil	Map whole of lot
Byrnes, Bate and Tarlington stock routes	111	Omit DP 23994, Lot 96 DP 752128 and Lot 3 DP 752135 from item, and add Lot 7003 DP 1126188, Lot 3 DP 752147 and DP 752163 to item in suburb Nerrigundah. Consolidate listing of Lots 2, 4, 6, 14 and 40 DP 752135 for item in suburb Cadgee. Add DP 752155 in suburb Tinpot. Add DP 752160 in suburbs Belowra and Yowrie.	Continue map of route through Lots 2, 6, 14, 15, 27 & 53 DP 752135, Lot 7003 DP 1126188, Lots 12, 14 & 15 DP 752160 and Lot 3 DP 752147.

Item Name in RLEP 1987 / ELEP 2012	Existing / Proposed Item No.	Schedule 5 Changes	Heritage Map Changes
Port Phillip Neddie's grave	I244	Add item to Part 1 Heritage Items as follows: "Tinpot, Port Phillip Neddie's Grave, Wattlegrove Road, Lot 76, DP 752145, Local, I244".	Map whole of lot
Cemetery	I85	Add item to Part 1 Heritage Items as follows: "Corunna, Corunna Cemetery, Old Highway, Lot 291, DP 752155, Local, I85".	Map whole of lot
Southam graves	I243	Nil	Map whole of lot
Former post office	I92	Change item name to Dignams Creek Post Office (former)	Map whole of lot
Bottin family graves	I219	Nil	Map whole of lot
Hunt's gold mine and battery	I125	Add item to Part 1 Heritage Items as follows: "Moruya, Hunt's Gold Mine and Battery, Dwyers Creek Road, Lot 312, DP 47662, Local, I125".	Map whole of lot
Moruya silver mine	I321	Add item to Part 1 Heritage Items as follows: "Moruya, Moruya Silver Mine, Dwyers Creek Road, Lot 312, DP 47662, Local, I321".	Map whole of lot
McCredie's Quarry and wharf	I322	Add item to Part 1 Heritage Items as follows: "Moruya, McCredie's Quarry and Wharf, 285 North Head Drive, Lot 3, DP 1175983 and DP 755963, Local, I322".	Map part of Lot 3 DP 1175985 south of North Head Drive and the whole of DP 755963 where it adjoins Lot 3.
Granite Town Cottage	I134	Add item to Part 1 Heritage Items as follows: "Moruya, Granitetown Cottage, 297 North Head Drive, Lot 12, DP 599653, Local, I134".	Map whole of lot
Ziegler's Quarry	I323	Add item to Part 1 Heritage Items as follows: "Moruya, Ziegler's Quarry, 306 North Head Drive, Lot 1, DP 1190622, Local, I323".	Map whole of lot
Lucky Old Chief and Royal Oak mines	I217	Add item to Part 1 Heritage Items as follows: "North Narooma, Lucky Old Chief and Royal Oak Mines, Rifle Range Pit Road, Lot 174, DP 752162, Local, I217".	Map curtilage

Item Name in RLEP 1987 / ELEP 2012	Existing / Proposed Item No.	Schedule 5 Changes	Heritage Map Changes
Wagonga cemetery	I194	Add item to Part 1 Heritage Items as follows: "Narooma, Wagonga Cemetery, Wagonga Scenic Drive, Lots 1 and 2, DP 725543, Local, I194".	Map whole of lots
Woolla homestead	I205	Omit the word "Historic" from the item name. Change the address to "1880 Neringla Road".	Map curtilage
Cemetery	I326	Add item to Part 1 Heritage Items as follows: "Nerrigundah, Nerrigundah Cemetery, 823 Nerrigundah Mountain Road, DP 752156, Local, I326".	Map whole of lot
Runnyford Homestead	I222	Nil	Map curtilage
May's Landing/Wray's wharf site	I221	Nil	Map whole of lot
Wrayville House	I324	Add item to Part 1 Heritage Items as follows: "Runnyford, Wrayville House, Mays Road, Lot 48, DP 755938 and Lot 7001, DP 1020736, Local, I324".	Map whole of lot
Chinese drystone wall	A19/I325	Omit item from Part 2 Archaeological sites. Add item to Part 1 Heritage Items as follows: "Tilba Tilba, Chinese Drystone Wall, Corkhill Drive, Lot 2, DP 1017506, Local, I325".	Map curtilage
Kyla Park grazing lands	I248	Add item to Part 1 Heritage Items as follows: "Tuross Head, Kyla Park Grazing Lands, Hector McWilliam Drive, Lots 75-77, DP 260321 and Lots 1-3, DP 1081596, Local I248.	Map whole of lots
Presbyterian church	I327	Add item to Part 1 Heritage Items as follows: "Coila, Davis Family Presbyterian Church, 4017 Princes Highway, Lot 96, DP 1134972, Local, I327".	Nil
Old Bolaro Road	A3	Add Lot 40 DP 755908 to the Property description	Map whole of lot
Remains of Granite Town	A9	Omit the words "Granite Town" from the Item name and insert the word "Granitetown" and add Lot 92 DP 631493 to the Property description	Map whole of lots

Item Name in RLEP 1987 / ELEP 2012	Existing / Proposed Item No.	Schedule 5 Changes	Heritage Map Changes
Shipyards site	A13	Nil	Map whole of lot
Convict road	A18	Nil	Map curtilage
Water race	I211/A30	Omit item from Part 1 Heritage Items. Add item to Part 2 Archaeological sites as follows: "Nerrigundah, Water Race, Gulph Creek Road, Lot 3, DP 1206836 and Lot 7300, DP 1129141, Local, A30".	Nil
Timber barn	I15	Nil	Map curtilage
Aboriginal canoe tree	I47	Omit Lot 70 DP 831111 from Property Description	Delete from Lot 70 DP 831111 and map curtilage within George Bass Drive road reserve.
Bellbrook farm buildings	I66	Omit Lot 1 DP 591024 from Property Description.	Map Lot 16 DP 807992 only.
Lustleigh Park farmhouse	I71	Add Lot 2 DP 1196461 to the Property Description.	Map curtilage.
Bengello Creek	AH4	Nil	Map whole of area
Najanuka heritage conservation area	AH5	Nil	Map whole of area
Barlings Beach and Island complex, including intertidal zone and foreshore	AH6	Nil	Map whole of area
Pedro Swamp	AH10	Nil	Map whole of area

Further, there are a number of amendments to Schedule 5 that are required to update property addresses due to recent subdivisions or updated information, as outlined in the table below:

Item Name	Item No.	Schedule 5 Changes	Heritage Map Changes
Slab Hut (Rosebud Farmhouse)	I101	Change Property Description to "Lot 2 DP 1217131".	Map only Lot 2 DP 1217131.
Mort's Quarry	I266	Change Property Description to "Part Lot 16, DP 752131".	Amend mapped curtilage (map to be provided)
Bingie Farm	I27	Change Item Name to "Magney House".	Nil
Mount Oldrey Homestead	I46	Change Item Name to "Mount Oldrey Homestead Site".	Nil
Former School of Arts	I95	Change Item Name to "Former School of Arts Remains".	Nil
Chinese Oven	I210	Add "Local" to the Significance column.	Nil
Abernathy & Co Stonemason's Lathe	I293	Omit "Local" and insert "State" in the Significance column.	Nil
Montague Island Lighthouse	I181	Omit "Narooma" and insert "Montague Island" in the Suburb column.	
Ruins of Thomas Forster's Residence	A14	Change Property Description to "Lot 1 DP 1205970".	Nil
Original Cemetery	I207	Change Item Name to "Original Nerrigundah Cemetery" and change property description to "Lots 8 to 11, Section 6, DP 758765 and Part Lots 12 and 13, Section 6, DP 758765".	Map curtilage (Map to be provided)

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending Schedule 5 and the Heritage Map is the best means of identifying all heritage items in Eurobodalla under ELEP 2012. There is no alternative means.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy*

The South Coast Regional Strategy states that “the Department of Planning and councils will review the scope and quality of the existing statutory lists of heritage items and ensure that all places of significance are included in the heritage schedules of local environmental plans”. Eurobodalla already has an extensive list of heritage items, based on comprehensive heritage studies, though these are currently split across two LEPs. With the proposed repeal of the Rural LEP 1987, places listed in that LEP are now to be transferred into ELEP 2012. The planning proposal is therefore considered to be consistent with the South Coast Regional Strategy.

4. *Is the planning proposal consistent with the Council’s local strategy or other local strategic plan*

The planning proposal implements Council’s Rural Lands Strategy.

5. *Is the planning proposal consistent with applicable state environmental planning policies?*

There are no SEPPs applicable to this item.

6. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?*

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
2.3 Heritage Conservation To conserve items, areas, objects and places of environmental and indigenous heritage significance.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

2.3 Heritage Conservation

This Direction states that a planning proposal must include provisions that facilitate conservation of items, areas, objects and places of environmental heritage significance and Aboriginal heritage significance.

Consistent. This planning proposal will repeal RLEP 1987 and bring all land under ELEP 2012. Clause 5.10 in the ELEP 2012 contains provisions that facilitates heritage conservation. The planning proposal does not change these provisions and Clause 5.10 would apply to all land in the Eurobodalla as a result of this planning proposal. Any potential impacts to heritage items, areas, objects and places of heritage significance would be assessed as part of the development application process.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

9. Has the planning proposal adequately addressed any social and economic effects?

The planning proposal will have no social or economic effects.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

The planning proposal will have no impacts on public infrastructure.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The Office of Environment and Heritage – Heritage Division provided a submission to the draft Rural lands Strategy, recognising that the Strategy notes there are four items of heritage in Eurobodalla that are listed on the State Heritage Register. The submission suggests that the Strategy would be strengthened if it:

- Noted that approval under the Heritage Act is required for any changes to the four State listed items;
- Noted the range of exempt and complying development that may apply to heritage items;
- Identified the State listed items on the heritage map in the Strategy.

None of these issues warrant any specific action in this planning proposal.

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 11 – Justification for Item No. 11

Name of item	Intended Outcome
Amend Wetlands, Watercourses and Riparian Lands Maps	To identify in ELEP 2012 watercourses, wetlands and riparian lands in the deferred matter.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. This appendix results from the implementation of other recommendations of the Rural Lands Strategy. The Rural Lands Strategy proposes the inclusion of all deferred matter in ELEP 2012. Therefore, all watercourses, wetlands and riparian lands in the deferred areas need to be included on the ELEP 2012 Wetlands, Watercourses and Riparian Lands Map.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Identifying waterways, wetland and riparian lands can only be achieved by including them on the Wetlands, Watercourses and Riparian Lands Map. There is no alternative means.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The South Coast Regional Strategy provides the following outcomes for the natural environment:

- Important natural assets, many of which also have biodiversity values, will be identified and protected through the land use planning process.
- The values and functions of riparian corridors and coastal wetlands will also be protected, enhanced and reinstated where identified through a strategic mapping process.

As the planning proposal provides for all watercourses, riparian lands and wetlands to be mapped under ELEP 2012, the proposal is considered to be consistent with the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council's local strategy or other local strategic plan

The planning proposal implements Council's Rural Lands Strategy.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP14 Coastal Wetlands To ensure that coastal wetlands are preserved and protected.	Consistent See below.
SEPP71 Coastal Protection To further implement the NSW Government's coastal policy.	Consistent See below.

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 14 – Coastal Wetlands

SEPP 14 prohibits persons from clearing, constructing a levee, draining or filling land identified as a SEPP 14 wetland. In the SEPP, clearing means the destruction or removal in any manner of native plants growing on the land.

Consistent. By updating the Wetlands, Watercourses and Riparian Lands Map to include the deferred matter, the planning proposal is considered to be consistent with SEPP 14.

SEPP 71 – Coastal Protection

SEPP 71 provides the following matters for consideration for development in coastal areas:

- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (m) likely impacts of development on the water quality of coastal waterbodies.

Consistent: By updating the Wetlands, Watercourses and Riparian Lands Map to include the deferred matter, the planning proposal is considered to be consistent with SEPP 71.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
2.2 Coastal Protection To implement the principles in the NSW Coastal Policy.	Consistent See below.
4.3 Flood Prone Land To ensure development of flood prone land is consistent with the NSW Government’s Flood Prone Land Policy.	Consistent See below
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

2.2 Coastal Protection

This Direction states that a planning proposal must include provisions that are consistent with the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, the *Coastal Design Guidelines 2003* and the *NSW Coastline Management Manual 1990*.

Consistent. By updating the Wetlands, Watercourses and Riparian Lands Map to include the deferred matter, the planning proposal is considered to be consistent with this Direction.

4.3 Flood Prone Land

This Direction states that a planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and principles of the *Floodplain Development Manual 2005*. It also states that a rural or environmental zone must not be rezoned to a residential, business, industrial, special use or special purpose zone and that a planning proposal must not contain provisions that apply to flood planning areas that:

- a) Permit development in floodway areas,

- b) Permit development that will result in significant flood impacts to other properties,
- c) Permit a significant increase in the development of that land.

Consistent. By updating the Wetlands, Watercourses and Riparian Lands Map to include the deferred matter, the planning proposal is considered to be consistent with this Direction.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

9. Has the planning proposal adequately addressed any social and economic effects?

The planning proposal will have no social or economic impacts.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

The planning proposal will have no impact on public infrastructure.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The Department of Primary Industries (DPI Fisheries) provided a submission to the draft Rural Lands Strategy strongly supporting the retention of the Wetlands, Watercourses and Riparian Lands overlay and clauses in the LEP. DPI Fisheries also recommended that the rural lands strategy establish a “neutral impact” benchmark for development impacts on water quality. This planning proposal does not propose to make any changes to the existing LEP clauses relating to wetlands or riparian lands.

Appendix 12 – Justification for Item No. 12

Name of item	Intended Outcome
Amend Acid Sulfate Soils Maps	To identify in ELEP 2012 acid sulfate soils in the deferred matter.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. This appendix results from the implementation of other recommendations of the Rural Lands Strategy.

The Rural Lands Strategy proposes the inclusion of all deferred matter in ELEP 2012. Therefore, all areas with potential for acid sulfate soils in the deferred areas need to be included on the ELEP 2012 Acid Sulfate Soils Map.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Identifying areas with potential for acid sulfate soils can only be achieved by including them on the Acid Sulfate Soils Map. There is no alternative means.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The South Coast Regional Strategy requires councils to ensure that their local environmental plans maximize the achievement of the principles and recommendations of a range of policies plans and guidelines, including the Planning Guidelines for Acid Sulfate Soils (NSW Government 1998). By updating the Acid Sulfate Soils Map to include the deferred matter, the planning proposal is considered to be consistent with the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council's local strategy or other local strategic plan

The planning proposal implements Council's Rural Lands Strategy.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP14 Coastal Wetlands To ensure that coastal wetlands are preserved and protected.	Consistent See below
SEPP71 Coastal Protection To further implement the NSW Government's coastal policy.	Consistent See below

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 14 – Coastal Wetlands

SEPP 14 prohibits persons from clearing, constructing a levee, draining or filling land identified as a SEPP 14 wetland. In the SEPP, clearing means the destruction or removal in any manner of native plants growing on the land.

Consistent. By updating the Acid Sulfate Soils Map to include the deferred matter, the planning proposal is considered to be consistent with SEPP 14.

SEPP 71 – Coastal Protection

SEPP 71 provides the following matters for consideration for development in coastal areas:

- (k) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (n) likely impacts of development on the water quality of coastal waterbodies.

Consistent: By updating the Acid Sulfate Soils Map to include the deferred matter, the planning proposal is considered to be consistent with SEPP 71.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
2.2 Coastal Protection To implement the principles in the NSW Coastal Policy.	Consistent See below
4.1 Acid Sulfate Soils To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	Consistent See below
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

2.2 Coastal Protection

This Direction states that a planning proposal must include provisions that are consistent with the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, the *Coastal Design Guidelines 2003* and the *NSW Coastline Management Manual 1990*.

Consistent. By updating the Acid Sulfate Soils Map to include the deferred matter, the planning proposal is considered to be consistent with this Direction.

4.1 Acid Sulfate Soils

This Direction states that a planning proposal must consider the Acid Sulfate Soils Planning Guidelines and that a planning proposal must not intensify the land uses on land identified as having a probability of containing Acid Sulfate Soils.

Consistent. By updating the Acid Sulfate Soils Map to include the deferred matter, the planning proposal is considered to be consistent with this Direction.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The planning proposal will have no social or economic effects.

Section D – STATE and COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

The planning proposal will have no impact on public infrastructure.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 13 – Justification for Item No. 13

Name of item	Intended Outcome
Amend Land Application Map	To remove reference to deferred matter and identify the ELEP 2012 as applying to the whole of Eurobodalla.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. This appendix results from the implementation of other recommendations of the Rural Lands Strategy.

The Rural Lands Strategy proposes the inclusion of all deferred matter in ELEP 2012. Therefore, ELEP 2012 Land Application Map is to be updated to remove referenced to Deferred Matter.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is no alternative means to achieve the objectives of the planning proposal.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The consolidation of all lands in the Eurobodalla Shire under one LEP is consistent with the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council's local strategy or other local strategic plan

The planning proposal implements Council's Rural Lands Strategy.

5. Is the planning proposal consistent with applicable state environmental planning policies?

There are no SEPPs applicable to this item.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No.

9. *Has the planning proposal adequately addressed any social and economic effects?*

Not relevant.

Section D – STATE and COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

Not relevant.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 14 – Justification for Item No. 14

Name of item	Intended Outcome
Amend Public Infrastructure Buffer Maps	To identify areas within public infrastructure buffers in the deferred matter.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. This appendix results from the implementation of other recommendations of the Rural Lands Strategy.

The Rural Lands Strategy proposes the inclusion of all deferred matter in ELEP 2012. Therefore, all areas within public infrastructure buffers need to be included on the ELEP 2012 Public Infrastructure Buffer Map.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Identifying areas within close proximity to public infrastructure can only be achieved by including them on the Public Infrastructure Buffer Map. There is no alternative means.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The South Coast Regional Strategy states that “the potential for land use conflict between existing and planned urban development and water, energy and waste recovery infrastructure will be minimised”. The identification of areas in close proximity to public infrastructure on the Public Infrastructure Buffer Map is therefore considered to be consistent with the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council’s local strategy or other local strategic plan

The planning proposal implements Council’s Rural Lands Strategy.

5. Is the planning proposal consistent with applicable state environmental planning policies?

There are no SEPPs applicable to this item.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The provision of adequate buffers to public infrastructure will have positive social and economic effects.

Section D – STATE and COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

The planning proposal will ensure the adequate buffering of relevant public infrastructure.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 15 – Justification for Item No. 15

Name of item	Intended Outcome
Amend Schedule 1	To make “Advertising signs, being a notice directing the travelling public to tourist facilities or activities or to places of scientific, historical or scenic interest (such as town signs)” permissible with consent in the RU1 and RU4 zones.

Section A – NEED for the PLANNING PROPOSAL

1. *Is the planning proposal a result of any strategic study or report?*

The planning proposal has arisen in response to Council’s preparation of a Town Signs Policy. In most circumstances, town signs will be located within road reserves, however there may be locations where a suitable site for a town sign cannot be found within the road reserve. Town signs are usually located on the approaches to towns, or at a turn-off from a major roads to the town. These locations are predominantly zoned, or proposed to be zoned, RU1 or RU4. The amendment therefore provides for town signs to be permissible with consent on land zoned RU1 and RU4.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

It is considered that the planning proposal provides the best means of achieving the intended outcome. An alternative approach could be to make “advertising signs” permissible with consent in the land use table for the RU1 and RU4 zones, however this is not preferred as it would permit a greater range of signage than envisaged. Using Schedule 1 allows for a specific type of advertising signs (town signs) to be made permissible.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy*

The planning proposal is consistent with the South Coast Regional Strategy in that it facilitates the provision of information to the travelling public about tourist destinations in the Shire without detrimentally affecting the rural landscape.

4. *Is the planning proposal consistent with the Council’s local strategy or other local strategic plan*

The planning proposal is consistent with Council’s Community Strategic Plan, One Community in that it helps to develop and promote tourism in the Shire.

5. *Is the planning proposal consistent with applicable state environmental planning policies?*

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP 64 Advertising and Signage To ensure signage is compatible with the desired amenity and visual character of an area, provide effective communication in suitable locations, and is of high quality design and finish.	Consistent See below

<p>SEPP Rural Lands 2008 To facilitate the orderly and economic use and development of rural lands for rural and related purposes through the application of rural planning principles and rural subdivision principles.</p>	<p>Consistent See below</p>
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An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 64 – Advertising and Signage

SEPP 64 provides guidance for signs in rural zones that are permissible under the relevant LEP, and particularly for signs that direct the travelling public to tourist facilities or activities or to places of scientific, historical or scenic interest.

Consistent. The planning proposal provides for such signs to be permissible with consent in the RU1 zone. The provisions of the SEPP will therefore be relevant to any future development proposal for a town sign on land zoned RU1 and RU4.

SEPP (Rural Lands) 2008

This SEPP provides a number of rural planning principles, including the following:

Rural Planning Principles

- (d) *In planning for rural lands, to balance the social, economic and environmental interests of the community*

Consistent. The planning proposal provides opportunities for communities to apply for town signs to be located in prominent places in rural areas, such as along major highways, to direct the public to towns. This will facilitate social and economic benefits to communities and potentially highlight important environmental characteristics of places. The planning proposal is therefore considered to be consistent with the Rural Planning Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
<p>1.2 Rural Zones To protect the agricultural production value of rural land.</p>	<p>Consistent See below.</p>
<p>1.5 Rural Lands To protect the agricultural production value and facilitate the orderly and economic development or rural land.</p>	<p>Consistent See below.</p>
<p>5.1 Implementation of Regional Strategies To give legal effect to regional strategies.</p>	<p>Consistent See below.</p>

An assessment of applicable s.117 Directions against the planning proposal is provided below.

1.2 Rural Zones

This direction states that a planning proposal must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

Consistent. The planning proposal provides for the advertising of tourist facilities and places of interest to tourists in prominent locations in rural areas and does not facilitate an increase in

permissible density of land in rural zones. The planning proposal is therefore considered to be consistent with this Direction.

1.5 Rural Lands

This direction states that a planning proposal must be consistent with the Rural Planning Principles and Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

Consistent. The planning proposal is consistent with the Rural Planning Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

9. Has the planning proposal adequately addressed any social and economic effects?

The planning proposal will facilitate improved promotion of tourist destinations in the Shire.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

Not relevant.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Council has consulted with the Roads and Maritime Services in the development of Council's Town Signs Policy. RMS noted that the Council Policy requires RMS approval for town signs located on or fronting a classified road and advised that any applications received by RMS for signage on or fronting a classified road would be considered on its merits.

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 16 – Justification for Item No. 16

Name of item	Intended Outcome
Introduce a new Airspace Operations clause	To ensure development in the vicinity of the Moruya Airport does not have a detrimental impact on the airport operations.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is in response to a request from the Civil Aviation Safety Authority (CASA) to demonstrate how Council, as the aerodrome operator, complies with the requirement of the Civil Aviation Safety Regulation to ensure that the airport operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity. To respond to this, it is proposed to add the Department of Planning and Environment’s Model Clause to ELEP 2012, which is currently included in the Bega Valley Local Environmental Plan, 2013 as follows:

6.8 Airspace operations

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide for the effective and ongoing operation of the Merimbula Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport,*
 - (b) *to protect the community from undue risk from that operation.*
- (2) *If a development application is received and the consent authority is satisfied that the proposed development will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application.*
- (3) *The consent authority may grant development consent for the development if the relevant Commonwealth body advises that:*
 - (a) *the development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or*
 - (b) *the development will not penetrate the Limitation or Operations Surface.*
- (4) *The consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the Limitation or Operations Surface and should not be constructed.*
- (5) *In this clause:*

Limitation or Operations Surface means the Obstacle Limitation Surface or the Procedures for Air Navigation Services Operations Surface as shown on the Obstacle Limitation Surface Map or the Procedures for Air Navigation Services Operations Surface Map for the Merimbula Airport.

Obstacle Limitation Surface Map means the Obstacle Limitation Surface Map for the Merimbula Airport prepared by the relevant Commonwealth body.

relevant Commonwealth body means the body, under Commonwealth legislation, that is responsible for development approvals for development that penetrates the Limitation or Operations Surface for the Merimbula Airport.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Implementation of the model clause for airspace operations is the best means of achieving the intended outcome.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The South Coast Regional Strategy states that local environmental plans will protect all regionally significant employment lands including the Moruya Airport. The proposal is therefore consistent with the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council’s local strategy or other local strategic plan

The planning proposal is consistent with Council’s Community Strategic Plan by protecting an important piece of community infrastructure.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP 71 Coastal Protection To further implement the NSW Government’s coastal policy.	Consistent See below

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 71 – Coastal Protection

SEPP 71 provides the following matters for consideration for development in coastal areas:

- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (m) likely impacts of development on the water quality of coastal waterbodies.

Consistent: Part of the area affected by the proposed clause is within the coastal zone and/or is in a sensitive coastal location as defined in SEPP 71. The proposed amendment will have no impact on the coastal zone.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
2.2 Coastal Protection To implement the principles in the NSW Coastal Policy.	Consistent See below.
3.5 Development Near Licensed Aerodromes To ensure the effective and safe operations of aerodromes.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

2.2 Coastal Protection

This Direction states that a planning proposal must include provisions that are consistent with the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, the *Coastal Design Guidelines 2003* and the *NSW Coastline Management Manual 1990*.

Consistent. Part of the area affected by the proposed clause is within the coastal zone and/or is a sensitive coastal location. The proposed amendments will have no impact on the coastal zone.

3.5 Development Near Licensed Aerodromes

This direction states that, in preparing a planning proposal that sets controls for the development of land in the vicinity of a licensed aerodrome, the relevant planning authority must consult with the relevant Commonwealth Department, take into consideration the Obstacle Limitation Surface as defined by that Department and prepare appropriate development standards.

Consistent. The planning proposal is in response to a request from the Civil Aviation Safety Authority to demonstrate how Council takes into consideration the obstacle limitation surface for development surrounding the Moruya Airport. Council will consult with relevant Commonwealth Departments when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

9. Has the planning proposal adequately addressed any social and economic effects?

The protection of the Moruya Airport from inappropriate development in flight paths will have positive social and economic effects.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

Not relevant.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Council will consult with relevant Commonwealth Departments when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 17 – Justification for Item No. 17

Name of item	Intended Outcome
Amend Schedule 1 and Additional Permitted Uses Map	Add Lot 1 DP 118963 to clause 4(1) and the Additional Permitted Uses Map.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of any strategic study or report. The subject lot (see Figure 17-1) was inadvertently omitted from clause 4(1) and the Additional Permitted Uses Map.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The use of Schedule 1 is the best means of achieving the intended outcome. The alternative would be to rezone the subject land, however there is no current zone option that would provide for a mix of residential and commercial activities in an edge of centre location.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The planning proposal is consistent with the South Coast Regional Strategy in that it provides additional employment opportunities in locations with good accessibility and in close proximity to the Batemans Bay town centre.

4. Is the planning proposal consistent with the Council's local strategy or other local strategic plan

The planning proposal is consistent with Council's Community Strategic Plan, One Community in that it supports business investment and employment growth. The amendment is also consistent with the Eurobodalla Economic Development and Employment Lands Strategy which identifies the subject land for additional commercial development.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP 71 Coastal Protection To further implement the NSW Government's coastal policy.	Consistent See below

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 71 – Coastal Protection

SEPP 71 provides the following matters for consideration for development in coastal areas:

- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (m) likely impacts of development on the water quality of coastal waterbodies.

Consistent: The subject area is within the coastal zone but is not in a sensitive coastal locations as defined in SEPP 71. The proposed amendment will have no impact on the coastal zone.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
2.2 Coastal Protection To implement the principles in the NSW Coastal Policy.	Consistent See below.
3.1 Residential Zones To encourage a variety of housing types, ensure access to appropriate infrastructure and services and minimise impacts on the environment and resource lands.	Consistent See below.
3.4 Integrating Land Use and Transport To ensure efficient and viable transport options, reduce dependence on cars, support public transport and provide for the efficient movement of freight.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

2.2 Coastal Protection

This Direction states that a planning proposal must include provisions that are consistent with the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, the *Coastal Design Guidelines 2003* and the *NSW Coastline Management Manual 1990*.

Consistent. The subject area is within the coastal zone but is not in a sensitive coastal location. The proposed amendment will have no impact on the coastal zone.

3.1 Residential Zones

This Direction states that a planning proposal must contain provisions that encourage a variety and choice of housing types, make efficient use of existing infrastructure and services and minimise impacts of residential development on the environment and resource lands.

Consistent. The planning proposal relates to land zoned R3 Medium Density Residential on which a commercial building is located. The subject land immediately adjoins the Batemans Bay town centre. While the planning proposal facilitates additional commercial development opportunities on the land, it does not change the existing opportunities for a possible future residential development on the land.

3.4 Integrating Land Use and Transport

This Direction states that a planning proposal must include provisions that give effect and are consistent with *Improving Transport choice – Guidelines for planning and development* (DUAP 2001) and *The right Place for Business and Services – Planning Policy* (DUAP 2001).

Consistent. The planning proposal provides for additional commercial development opportunities on the land which is located immediately adjacent to commercially zoned land in the Batemans Bay town centre. The planning proposal is considered consistent with this Direction.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The amendment provides for additional commercial activities to be developed in an area proximate to the Batemans Bay town centre, thereby increasing economic development and employment opportunities.

Section D – STATE and COMMONWEALTH INTERESTS

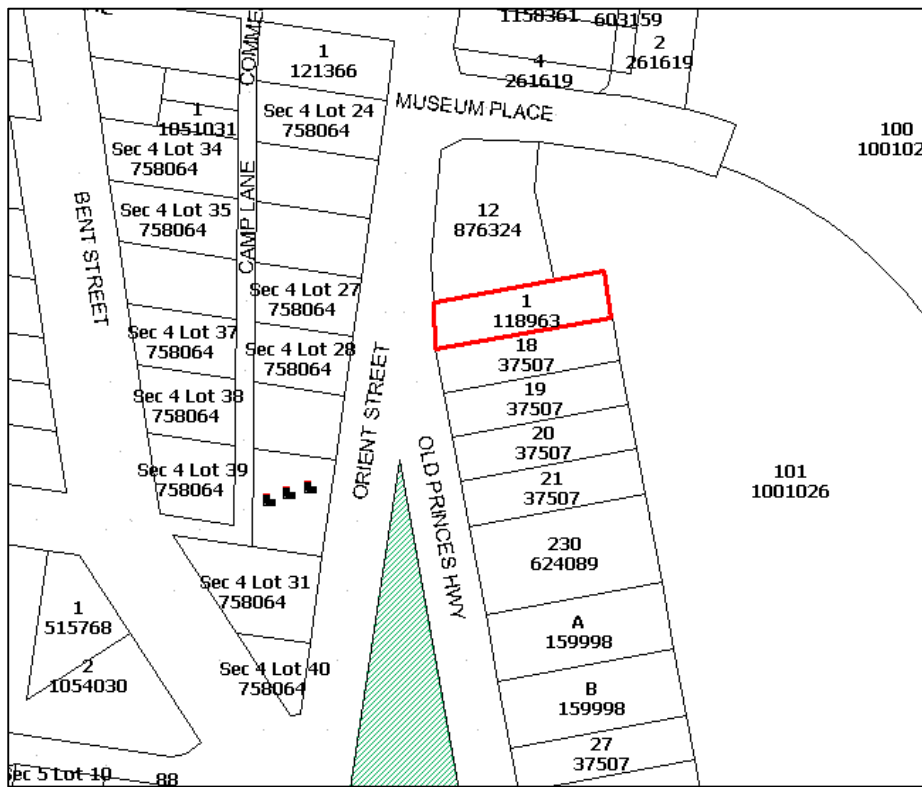
10. *Is there adequate public infrastructure for the planning proposal?*

The planning proposal will have no detrimental impacts on existing public infrastructure.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Figure 17-1 Subject Land



Appendix 18 – Justification for Item No. 18

Name of item	Intended Outcome
Amend Schedule 1	Add Recreation facility (indoor) to the list of additional permitted uses for the land at Narooma identified as '5' on the Additional Permitted Uses Map.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of any strategic study or report, but is in response to a development enquiry for a gymnasium to be permitted with consent on certain land in Narooma (see Figure 18-1).

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The use of Schedule 1 is the best means of achieving the intended outcome. The alternative would be to rezone the subject land, however there is no current zone option that would provide for a mix of residential and commercial activities in an edge of centre location.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The planning proposal is consistent with the South Coast Regional Strategy in that it provides additional employment opportunities in locations with good accessibility and in close proximity to the Narooma town centre.

4. Is the planning proposal consistent with the Council's local strategy or other local strategic plan

The planning proposal is consistent with Council's Community Strategic Plan, One Community in that it supports business investment and employment growth. The amendment is also consistent with the Eurobodalla Economic Development and Employment Lands Strategy which promotes additional commercial development opportunities on land adjoining town centres.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP 71 Coastal Protection To further implement the NSW Government's coastal policy.	Consistent See below

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 71 – Coastal Protection

SEPP 71 provides the following matters for consideration for development in coastal areas:

- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (m) likely impacts of development on the water quality of coastal waterbodies.

Consistent: The subject area is within the coastal zone and part is in a sensitive coastal location as defined in SEPP 71. The proposed amendment will have no impact on the coastal zone.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
2.2 Coastal Protection To implement the principles in the NSW Coastal Policy.	Consistent See below.
3.1 Residential Zones To encourage a variety of housing types, ensure access to appropriate infrastructure and services and minimise impacts on the environment and resource lands.	Consistent See below.
3.4 Integrating Land Use and Transport To ensure efficient and viable transport options, reduce dependence on cars, support public transport and provide for the efficient movement of freight.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

2.2 Coastal Protection

This Direction states that a planning proposal must include provisions that are consistent with the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, the *Coastal Design Guidelines 2003* and the *NSW Coastline Management Manual 1990*.

Consistent. The subject area is within the coastal zone and part is in a sensitive coastal location. The proposed amendments will have no impact on the coastal zone.

3.1 Residential Zones

This Direction states that a planning proposal must contain provisions that encourage a variety and choice of housing types, make efficient use of existing infrastructure and services and minimise impacts of residential development on the environment and resource lands.

Consistent. The planning proposal relates to land zoned R3 Medium Density Residential on which a commercial building is located. The subject land is in close proximity to commercially zoned land in Narooma. While the planning proposal facilitates additional commercial development opportunities on the land, it does not change the existing opportunities for a possible future residential development on the land.

3.4 Integrating Land Use and Transport

This Direction states that a planning proposal must include provisions that give effect and are consistent with *Improving Transport choice – Guidelines for planning and development* (DUAP 2001) and *The right Place for Business and Services – Planning Policy* (DUAP 2001).

Consistent. The planning proposal provides for additional commercial development opportunities on the land which is located in close proximity to commercially zoned land in Narooma. The planning proposal is considered consistent with this Direction.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

9. Has the planning proposal adequately addressed any social and economic effects?

The amendment provides for additional commercial activities to be developed in an area proximate to the Narooma town centre, thereby increasing economic development and employment opportunities.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

The planning proposal will have no detrimental impacts on existing public infrastructure.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 19 – Justification for Item No. 19

Name of item	Intended Outcome
Amend Land Zoning Map and Minimum Lot Size Map	To rezone Lots 101 and 183 DP 755904, at the corner of Durras Drive and Durras Lake Road, South Durras, from the B1 Neighbourhood Centre Zone to the R2 Low Density Residential Zone and to introduce a 1500m ² minimum lot size.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of any strategic study or report, but is in response to representations made by the owners of the subject land (see Figure 19-1). The subject land is currently vacant.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending the zone of the subject lot is the best means of achieving the intended outcomes.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The South Coast Regional Strategy states that “Councils will maintain the current net supply of zoned employment lands; however consideration will be given to zoning changes that address concerns regarding tenure, location, constraints and specific opportunities”. The subject land is currently zoned B1 Neighbourhood Centre under ELEP 2012. This zoning was applied as the land was zoned 3a Business under the former Urban LEP 1999. The land has remained undeveloped for commercial purposes for many years as there has been no demand for further commercial development in South Durras, which already contains a local store and shops associated with local caravan parks. The population of South Durras is not likely to grow to a level that will warrant additional commercial development, with the possible exception of a new neighbourhood shop. Rezoning to R2 Low Density Residential will still enable a neighbourhood shop to be granted development consent on the land should the existing or future land owner(s) make such an application. It is considered that the reduction in zoned employment lands is appropriate in these circumstances.

4. Is the planning proposal consistent with the Council’s local strategy or other local strategic plan

The planning proposal is consistent with Council’s Community Strategic Plan by ensuring planning is responsive to the environment and community needs. In 2006, a report into neighbourhood centres in the Eurobodalla by Wakefield Planning found that the likely future classification of South Durras in the retail hierarchy was “convenience shops”. The report stated at “at the current time only a minor additional retail offer is seen as necessary for Durras, most probably through expansion of the current store” and “no specific business zoning required”. Rezoning the subject land to R2 Low Density Residential, which permits neighbourhood shops, is consistent with this report.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP 71 Coastal Protection To further implement the NSW Government’s coastal policy.	Consistent See below

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 71 – Coastal Protection

SEPP 71 provides the following matters for consideration for development in coastal areas:

- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (m) likely impacts of development on the water quality of coastal waterbodies.

Consistent: The subject lots are within the coastal zone but are not in a sensitive coastal location as defined in SEPP 71. The proposed amendment will have no impact on the coastal zone.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
1.1 Business and Industrial Zones To encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified strategic centres.	Inconsistent See below.
2.2 Coastal Protection To implement the principles in the NSW Coastal Policy.	Consistent See below.
3.1 Residential Zones To encourage a variety of housing types, ensure access to appropriate infrastructure and services and minimise impacts on the environment and resource lands.	Consistent See below.
3.4 Integrating Land Use and Transport To ensure efficient and viable transport options, reduce dependence on cars, support public transport and provide for the efficient movement of freight.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

1.1 Business and Industrial Zones

This direction states that a planning proposal must:

- (a) give effect to the objectives of this direction,
- (b) retain the areas and locations of existing business and industrial zones,
- (c) not reduce the total potential floor space area for employment uses and related public services in business zones, and
- (d) not reduce the total potential floor space area for industrial uses in industrial zones.

Inconsistent, but of minor significance. While the planning proposal does not retain an existing business zone in this location, the proposed R2 Low Density Residential Zone provides for neighbourhood shops to be permissible with consent. Given that there has been not been, and there

is unlikely to be, demand for additional commercial development (other than an expansion of the existing general store or a new neighbourhood shop) in the South Durras area, the proposed rezoning is considered appropriate notwithstanding the inconsistency with the direction.

2.2 Coastal Protection

This Direction states that a planning proposal must include provisions that are consistent with the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, the *Coastal Design Guidelines 2003* and the *NSW Coastline Management Manual 1990*.

Consistent. The subject lots are within the coastal zone but are not in a sensitive coastal location. The proposed amendments will have no impact on the coastal zone.

3.1 Residential Zones

This Direction states that a planning proposal must contain provisions that encourage a variety and choice of housing types, make efficient use of existing infrastructure and services and minimise impacts of residential development on the environment and resource lands.

Consistent. The proposed rezoning of the subject land to R2 Low Density Residential will facilitate a small number of additional housing opportunities in South Durras. The proposed minimum lot size of 1500m² will minimise potential impacts of residential development on the environment. The planning proposal is considered consistent with this direction.

3.4 Integrating Land Use and Transport

This Direction states that a planning proposal must include provisions that give effect and are consistent with *Improving Transport choice – Guidelines for planning and development* (DUAP 2001) and *The right Place for Business and Services – Planning Policy* (DUAP 2001).

Consistent. The planning proposal will facilitate a small number of additional housing opportunities in South Durras. The change in zoning from business to residential in this location will have no significant impact on access to housing, jobs and services, particularly given the proposed zone permits both dwellings and neighbourhood shops. The planning proposal is considered consistent with this Direction.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The subject land contains vegetation which is not identified as an endangered ecological community. Whilst the proposed change in zone facilitates residential development on the land, the impact is not considered greater than the potential impact of a commercial development on the land.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

9. Has the planning proposal adequately addressed any social and economic effects?

The subject land has remained undeveloped as there is no demand for additional commercial development in South Durras. A study undertaken in 2006 identified that additional commercial development is unlikely to be required in the future. South Durras is a small coastal village surrounded by National Park with no expansion opportunity. The proposed rezoning of the land from B2 Local Centre to R2 Low Density Residential is unlikely to have a detrimental social or economic impact on South Durras, particularly as a neighbourhood shop is a permissible use in the R2 zone.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

Not relevant.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Figure 19-1 Subject Land



Appendix 20 – Justification for Item No. 20

Name of item	Intended Outcome
Amend Land Zoning Map, Minimum Lot Size Map and Height of Buildings Map	To rezone part of Lot 1 DP 1036103, Beach Road, Catalina (Catalina Country Club), from the R2 Low Density Residential Zone to the RE2 Private Recreation Zone and to make consequential changes to the Minimum Lot Size and Height of Buildings Maps.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of any strategic study or report, but is in response to representations from the owner of the subject land (see Figure 20-1). The land contains a golf course and the majority of the land is already zoned RE2. For consistency with other land zoned RE2 in the Eurobodalla Shire, it is proposed to remove the minimum lot size standard from the land. It is also proposed to change the Height of Buildings Map to add and 8.5m control to the land proposed to be rezoned to ensure consistency with the surrounding land.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending the zone of the subject lot, and making consequential changes to the Minimum Lot Size and Height of Buildings Maps is the best means of achieving the intended outcomes.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The South Coast Regional Strategy provides for an additional 10,700 dwellings to be provided in Eurobodalla to cater for growth between 2006 and 2031. Rezoning the subject land from R2 Low Density Residential to RE2 Private Recreation potentially results in the loss of approximately 7 dwellings. Eurobodalla has sufficient undeveloped land zoned for residential purposes to meet the above dwelling target, without including the subject land. The proposal is not considered to be inconsistent with the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council's local strategy or other local strategic plan

The planning proposal is consistent with Council's Community Strategic Plan by ensuring planning is responsive to the environment and community needs.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP 71 Coastal Protection To further implement the NSW Government's coastal policy.	Consistent See below

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 71 – Coastal Protection

SEPP 71 provides the following matters for consideration for development in coastal areas:

- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (m) likely impacts of development on the water quality of coastal waterbodies.

Consistent: The subject land is within the coastal zone, but is not in a sensitive coastal location as defined in SEPP 71. The proposed amendment will have no impact on the coastal zone.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
2.2 Coastal Protection To implement the principles in the NSW Coastal Policy.	Consistent See below.
3.1 Residential Zones To encourage a variety of housing types, ensure access to appropriate infrastructure and services and minimise impacts on the environment and resource lands.	Inconsistent See below.
3.4 Integrating Land Use and Transport To ensure efficient and viable transport options, reduce dependence on cars, support public transport and provide for the efficient movement of freight.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

2.2 Coastal Protection

This Direction states that a planning proposal must include provisions that are consistent with the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, the *Coastal Design Guidelines 2003* and the *NSW Coastline Management Manual 1990*.

Consistent. The subject land is within the coastal zone, but is not in a sensitive coastal location. The proposed amendments will have no impact on the coastal zone.

3.1 Residential Zones

This Direction states that a planning proposal must contain provisions that encourage a variety and choice of housing types, make efficient use of existing infrastructure and services and minimise impacts of residential development on the environment and resource lands. The direction also states that a planning proposal must not contain provisions which will reduce the permissible residential density of land.

Inconsistent, but of minor significance. By rezoning the land from R2 Low density Residential to RE2 Private Recreation, the planning proposal is effectively reducing the permissible residential density of the land. This potentially results in the loss of approximately 7 dwellings. Eurobodalla has sufficient undeveloped land zoned for residential purposes to meet the dwelling target in the South Coast Regional Strategy, without including the subject land. While the proposal is inconsistent with the terms of the direction, it is considered to be of minor significance.

3.4 Integrating Land Use and Transport

This Direction states that a planning proposal must include provisions that give effect and are consistent with *Improving Transport choice – Guidelines for planning and development* (DUAP 2001) and *The right Place for Business and Services – Planning Policy* (DUAP 2001).

Consistent. The planning proposal changes the zoning in this area from residential (R2) to recreation (RE2), consistent with the zoning and land use of the remainder of the site (golf course). The change in zoning will have no impact on access to housing, jobs and services in the local community. The planning proposal is considered consistent with this Direction.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The proposed rezoning of the land from R2 Low Density Residential to RE2 Private Recreation is unlikely to have any detrimental social or economic effects.

Section D – STATE and COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

Not relevant.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 21 – Justification for Item No. 21

Name of item	Intended Outcome
Amend clause 6.2	To ensure a DCP is required for urban release areas in appropriate circumstances.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of any strategic study or report. It is proposed to amend the existing clause in ELEP 2012 to ensure a DCP is required for urban release areas in appropriate circumstances.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending the clause for urban release areas is the best means of achieving the intended outcome.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The South Coast Regional Strategy states that “local environmental plans will include appropriate urban design and land use objectives as set out in the Neighbourhood Planning Principles to address issues such as sustainability, promoting community development and wellbeing, quality architecture and character and promoting community health and wellbeing”. ELEP 2012 includes such a provision (clause 6.2) but this provision contains a clause that enables an existing DCP to apply, but does not require that DCP to address the relevant matters in the clause. Improving this clause to ensure a DCP is required in appropriate circumstances is therefore considered to be consistent with the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council’s local strategy or other local strategic plan

The planning proposal is consistent with Council’s Community Strategic Plan by ensuring planning is responsive to the environment and community needs.

5. Is the planning proposal consistent with applicable state environmental planning policies?

There are no SEPPs applicable to this item.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
3.1 Residential Zones To encourage a variety of housing types, ensure access to appropriate infrastructure and services and minimise impacts on the environment and resource lands.	Consistent See below.
3.4 Integrating Land Use and Transport	Consistent See below.

To ensure efficient and viable transport options, reduce dependence on cars, support public transport and provide for the efficient movement of freight.	
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

3.1 Residential Zones

This Direction states that a planning proposal must contain provisions that encourage a variety and choice of housing types, make efficient use of existing infrastructure and services and minimise impacts of residential development on the environment and resource lands.

Consistent. By requiring urban release areas to have a DCP in appropriate circumstances to address the matters outlined in the direction, the planning proposal is considered consistent with the direction.

3.4 Integrating Land Use and Transport

This Direction states that a planning proposal must include provisions that give effect and are consistent with *Improving Transport choice – Guidelines for planning and development* (DUAP 2001) and *The right Place for Business and Services – Planning Policy* (DUAP 2001).

Consistent. By requiring urban release areas to have a DCP in appropriate circumstances to address the matters outlined in the guidelines and policy documents referred to in the direction, the planning proposal is considered consistent with the direction.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

9. Has the planning proposal adequately addressed any social and economic effects?

The requirement for urban release areas to have a DCP in appropriate circumstances will ensure that social and economic issues are adequately addressed early in the planning of new residential developments.

Section D – STATE and COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

Not relevant.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 22 – Justification for Item No. 22

Name of item	Intended Outcome
Amend Minimum Lot Size Map	To increase the minimum lot size for land at Lots 1 to 5 DP 1056650, Lots 10 and 11 DP 1189589 and Lot 3 DP 1011462, Old Highway, Narooma from 1500m ² to 2500m ² .

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of any strategic study or report, but is in response to development enquiries from the owners of the subject land (see Figure 22-1). The subject land is zoned E4 Environmental Living.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending the minimum lot size map is the only means of achieving the intended outcome.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The South Coast Regional Strategy states that “Councils will review the suitability of planning controls in existing urban zoned and undeveloped lands in the catchments of coastal lakes and estuaries”. The subject land adjoins Wagonga Inlet and if developed at the current minimum lot size would require private sewerage pumping systems to be provided. Land owners have been unable to negotiate the provision of such infrastructure and now propose the use of on-site sewerage management systems which require a larger lot size to avoid impacts on the water quality of Wagonga Inlet. The proposal is therefore considered consistent with the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council’s local strategy or other local strategic plan

The planning proposal is consistent with Council’s Community Strategic Plan by ensuring planning is responsive to the environment and community needs.

5. Is the planning proposal consistent with applicable state environmental planning policies?

State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP71 Coastal Protection To further implement the NSW Government’s coastal policy.	Consistent See below.

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 71 – Coastal Protection

SEPP 71 provides the following matters for consideration for development in coastal areas:

- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (m) likely impacts of development on the water quality of coastal waterbodies.

Consistent: The subject land is within the coastal zone and is within a sensitive coastal location. The proposed increase in minimum lot size will ensure the potential development yield of the land is consistent with the provision of on-site sewage management systems, thereby minimising impacts on the water quality of Wagonga Inlet.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
2.1 Environment Protection Zones To protect and conserve environmentally sensitive areas.	Consistent See below.
2.2 Coastal Protections To implement the principles in the NSW Coastal Policy.	Consistent See below.
3.1 Residential Zones To encourage a variety of housing types, ensure access to appropriate infrastructure and services and minimise impacts on the environment and resource lands.	Inconsistent See below.
3.4 Integrating Land Use and Transport To ensure efficient and viable transport options, reduce dependence on cars, support public transport and provide for the efficient movement of freight.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

2.1 Environment Protection Zones

This direction states that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. Further, it states that a planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land.

Consistent. The planning proposal retains the E4 Environmental Living zone for the subject land and increases the minimum lot size to ensure future potential development opportunities will have minimal impacts on the water quality of Wagonga Inlet. The proposal is considered to be consistent with this Direction.

2.2 Coastal Protection

This Direction states that a planning proposal must include provisions that are consistent with the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, the *Coastal Design Guidelines 2003* and the *NSW Coastline Management Manual 1990*.

Consistent. The subject land is within the coastal zone and is within a sensitive coastal location. The proposed increase in minimum lot size will ensure the potential development yield of the land is consistent with the provision of on-site sewage management systems, thereby minimising impacts on the water quality of Wagonga Inlet.

3.1 Residential Zones

This Direction states that a planning proposal must contain provisions that encourage a variety and choice of housing types, make efficient use of existing infrastructure and services and minimise impacts of residential development on the environment and resource lands. The direction also states that a planning proposal must not contain provisions which will reduce the permissible residential density of land.

Inconsistent, but in accordance with the South Coast Regional Strategy. By increasing the minimum lot size, the planning proposal is effectively reducing the permissible residential density of the land. However, the maximum residential density that could be achieved on the land under the current minimum lot size is based upon the provision of private sewerage pumping system(s). Without such infrastructure, the maximum permissible density of the land is limited by the need for on-site sewerage management systems which require larger lot sizes, particularly given the location of the lots adjoining Wagonga Inlet. The proposed minimum lot size will facilitate a more suitable residential density for the land to avoid impacts on the water quality of Wagonga Inlet. While the proposal is inconsistent with the terms of the direction, it is considered to be in accordance with the South Coast Regional Strategy.

3.4 Integrating Land Use and Transport

This Direction states that a planning proposal must include provisions that give effect and are consistent with *Improving Transport choice – Guidelines for planning and development* (DUAP 2001) and *The right Place for Business and Services – Planning Policy* (DUAP 2001).

Consistent. The proposed change to the minimum lot size would not change existing access to housing, jobs and services. The planning proposal is considered consistent with this Direction.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

9. Has the planning proposal adequately addressed any social and economic effects?

The proposed increase in the minimum lot size for the land is unlikely to have any detrimental social or economic effects.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

Not relevant.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Figure 22-1 Subject Land



Appendix 23 – Justification for Item No. 23

Name of item	Intended Outcome
Amend Minimum Lot Size Map	To decrease the minimum lot size for certain lands from 600m ² to 550m ² . This applies to certain lands that were included in Amendment No. 7 to ELEP 2012, and will result in a lot size that is consistent with adjoining lands.

Section A – NEED for the PLANNING PROPOSAL

1. *Is the planning proposal a result of any strategic study or report?*

The planning proposal is not the direct result of any strategic study or report, but is to ensure consistency of minimum lot size on land zone R2 Low Density Residential.

The planning proposal applies to the following lots, which were included in ELEP 2012 Amendment No. 7 and for which an incorrect minimum lot size was applied:

- Part Lot 462 DP 512433, Forest Parade, Tomakin
- Lot 1 DP 1132065, Coronation Drive, Broulee
- Lot C DP 39088, Coronation Drive, Broulee
- Lot D DP 39088, Coronation Drive, Broulee
- Lot E DP 39088, Coronation Drive, Broulee
- Part Lot 6 DP 1212271, South Head Road, Moruya
- Lots 9 to 11, DP 1174944, Carrie Crescent, Moruya
- Lot 1 DP 125321, 2815 Albert Street, Moruya
- Lot 21, DP 1077474, Dalmeny Drive, Kianga
- Sec 3, Lot 6 DP 758754, 119 Wagonga Street, Narooma
- Part Lot 56 DP 708346, Christopher Crescent, Batehaven
- Lot 1 DP 1144366, Imlay Street, Broulee
- Lot 38 DP 718667, Train Street, Broulee
- Lot 693 DP 249461, Penguin Place, Catalina
- Lot 66 DP 261646, Mummaga Lake Drive, Dalmeny
- Lot 13 DP 785266, White Sands Place, Denhams Beach
- Lot 88 DP 803087, Lewana Close, Lilli Pilli
- Lot 41 DP 1061842, Bunderra Circuit, Lilli Pilli
- Lot 127 DP 1068529, Litchfield Crescent, Long Beach
- Lot 246 DP 569875, Maloney Drive, Maloney's Beach
- Lot 14 DP 701609, Maloney Drive, Maloney's Beach
- Lot 11 DP 771497, George Bass Drive, Malua Bay
- Lot 51 DP 771497, Pioneer Avenue, Moruya
- Lot 11 DP 809702, Panorama Place, Moruya
- Lot 21 DP 825840, Chisolm Place, Narooma
- Lot 2 DP 244134, Penthouse Place, North Batemans Bay
- Lot 173 DP 262910, Hume Road, Sunshine Bay

- Lot 9 DP 774356, John Oxley Crescent, Sunshine Bay
- Lot 14 DP 30365, Bay View Street, Surf Beach
- Lot 3 DP 622389, Beach Road, Surf Beach
- Lot 277 DP 218664, Tuross Boulevard, Tuross Head

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending the minimum lot size map is the only means of achieving the intended outcome.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The South Coast Regional Strategy states that “Councils will plan for a range of housing types of appropriate densities, location and suitability, capable of adapting and responding to the ageing population”. Across the R2 Low Density Residential Zones in Eurobodalla, the minimum lot size is predominantly 550m². When a minimum lot size was applied to the subject lots, it was intended for the lot size to be consistent with adjoining residential land. However, an incorrect minimum lot size was applied and this planning proposal will result in a consistent minimum lot size. The proposal is considered to be consistent with the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council’s local strategy or other local strategic plan

The planning proposal is consistent with Council’s Community Strategic Plan by ensuring planning is responsive to the environment and community needs.

5. Is the planning proposal consistent with applicable state environmental planning policies?

State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP71 Coastal Protection To further implement the NSW Government’s coastal policy.	Consistent See below.

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 71 – Coastal Protection

SEPP 71 provides the following matters for consideration for development in coastal areas:

- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (m) likely impacts of development on the water quality of coastal waterbodies.

Consistent: Some of the affected lots are within the Coastal Zone and/or in a sensitive coastal location. The proposal to amend the minimum lot size is unlikely to have any detrimental impacts on coastal processes.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
2.2 Coastal Protection To implement the principles in the NSW Coastal Policy.	Consistent See below.
3.1 Residential Zones To encourage a variety of housing types, ensure access to appropriate infrastructure and services and minimise impacts on the environment and resource lands.	Consistent See below.
3.4 Integrating Land Use and Transport To ensure efficient and viable transport options, reduce dependence on cars, support public transport and provide for the efficient movement of freight.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

2.2 Coastal Protection

This Direction states that a planning proposal must include provisions that are consistent with the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, the *Coastal Design Guidelines 2003* and the *NSW Coastline Management Manual 1990*.

Consistent. Some of the affected lots are within the Coastal Zone and/or in a sensitive coastal location. The proposal to amend the minimum lot size is unlikely to have any detrimental impacts on coastal processes.

3.1 Residential Zones

This Direction states that a planning proposal must contain provisions that encourage a variety and choice of housing types, make efficient use of existing infrastructure and services and minimise impacts of residential development on the environment and resource lands.

Consistent. By reducing the minimum lot size from 600m² to 550m², the planning proposal will facilitate a residential density consistent with surrounding residential land. The planning proposal is considered consistent with this direction.

3.4 Integrating Land Use and Transport

This Direction states that a planning proposal must include provisions that give effect and are consistent with *Improving Transport choice – Guidelines for planning and development* (DUAP 2001) and *The right Place for Business and Services – Planning Policy* (DUAP 2001).

Consistent. The proposed reduction in the minimum lot size for the subject lots would not change existing access to housing, jobs and services. The planning proposal is considered consistent with this Direction.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

9. Has the planning proposal adequately addressed any social and economic effects?

The proposed reduction in the minimum lot size for the subject lots is unlikely to have any detrimental social or economic effects.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

Not relevant.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 24 – Justification for Item No. 24

Name of item	Intended Outcome
Amend Land Zoning Map, Minimum Lot Size Map and Height of Buildings Map	To correct the boundary between the R2 and RU1 zones for land that been subdivided for residential purposes at East Moruya (Braemar Estate) and to make consequential changes to the Minimum Lot Size and Height of Buildings Maps.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of any strategic study or report, but is in response to a development consent for subdivision of land for residential purposes (see Figure 24-1).

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is no alternative means to achieve the objective of the planning proposal.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The planning proposal is not inconsistent with any element of the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council’s local strategy or other local strategic plan

The planning proposal is consistent with Council’s Community Strategic Plan by ensuring planning is responsive to the environment and community needs.

5. Is the planning proposal consistent with applicable state environmental planning policies?

State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP Rural Lands 2008 To facilitate the orderly and economic use and development of rural lands for rural and related purposes through the application of rural planning principles and rural subdivision principles.	Consistent See below.
SEPP71 Coastal Protection To further implement the NSW Government’s coastal policy.	Consistent See below.

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP Rural Lands 2008

This SEPP provides a number of rural planning and subdivision principles, including the following:

Rural Planning Principles

- (a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*

(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,

Rural Subdivision Principles

(a) the minimisation of rural land fragmentation,

(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses.

Consistent. The planning proposal makes a minor adjustment to the R2 and RU1 zone boundary to ensure that the whole of approved residential lots are zoned for residential purposes. The proposal will have no impact on agricultural land and is therefore considered to be consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

SEPP 71 – Coastal Protection

SEPP 71 provides the following matters for consideration for development in coastal areas:

(k) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

(n) likely impacts of development on the water quality of coastal waterbodies.

Consistent: The subject land is within the coastal zone but is not in a sensitive coastal location. The proposed amendments will have no impact on the coastal zone.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
1.2 Rural Zones To protect the agricultural production value of rural land.	Consistent See below.
1.5 Rural Lands To protect the agricultural production value and facilitate the orderly and economic development or rural land.	Consistent See below.
2.2 Coastal Protection To implement the principles in the NSW Coastal Policy.	Consistent See below.
3.1 Residential Zones To encourage a variety of housing types, ensure access to appropriate infrastructure and services and minimise impacts on the environment and resource lands.	Consistent See below.
3.4 Integrating Land Use and Transport To ensure efficient and viable transport options, reduce dependence on cars, support public transport and provide for the efficient movement of freight.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

1.2 Rural Zones

This direction states that a planning proposal must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

Consistent. The planning proposal makes a minor adjustment to the R2 and RU1 zone boundary to ensure that the whole of approved residential lots are zoned for residential purposes. The proposal will have no impact on agricultural land and is therefore considered to be consistent with this Direction.

1.5 Rural Lands

This direction states that a planning proposal must be consistent with the Rural Planning and Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

Consistent. The planning proposal makes a minor adjustment to the R2 and RU1 zone boundary to ensure that the whole of approved residential lots are zoned for residential purposes. The proposal will have no impact on agricultural land and is therefore considered to be consistent with the Rural Planning and Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

2.2 Coastal Protection

This Direction states that a planning proposal must include provisions that are consistent with the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, the *Coastal Design Guidelines 2003* and the *NSW Coastline Management Manual 1990*.

Consistent. The subject land is within the coastal zone but is not in a sensitive coastal location. The proposed amendments will have no impact on the coastal zone.

3.1 Residential Zones

This Direction states that a planning proposal must contain provisions that encourage a variety and choice of housing types, make efficient use of existing infrastructure and services and minimise impacts of residential development on the environment and resource lands.

Consistent. The planning proposal will have no detrimental impacts of housing choice, infrastructure and services or the environment. The planning proposal is considered consistent with this direction.

3.4 Integrating Land Use and Transport

This Direction states that a planning proposal must include provisions that give effect and are consistent with *Improving Transport choice – Guidelines for planning and development* (DUAP 2001) and *The right Place for Business and Services – Planning Policy* (DUAP 2001).

Consistent. The planning proposal will have no detrimental impacts of transport choice or accessibility. The planning proposal is considered consistent with this direction.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is not inconsistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

9. Has the planning proposal adequately addressed any social and economic effects?

The proposal will have positive social and economic effects through the removal of an unnecessary split zoning on residential lots.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

The planning proposal will have no impact on public infrastructure.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Figure 24-1: Subject land



Appendix 25 – Justification for Item No. 25

Name of item	Intended Outcome
Amend Schedule 4 and Height of Buildings Map	Reclassify a laneway in Batemans Bay to operational and provide for an 18m maximum building height.

For further details of the proposed reclassification, see the table below.

Lot and DP	Address	Suburb	Area	Identified through Recreation Strategy	Interests Changed	Intention
Lot 21 DP 547034	4 North Street	Batemans Bay	69.6m ²	No	No	To enable the sale of the land to an adjoining owner.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of any strategic study or report, but is in response to a development consent that provides for alternative pedestrian access to the subject laneway (see Figures 25-1 and 25-2).

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is no alternative means to achieve the objective of the planning proposal.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The planning proposal is not inconsistent with any element of the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council's local strategy or other local strategic plan

The planning proposal is consistent with Council's Community Strategic Plan by ensuring planning is responsive to the environment and community needs.

5. Is the planning proposal consistent with applicable state environmental planning policies?

State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP71 Coastal Protection To further implement the NSW Government's coastal policy.	Consistent See below.

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 71 – Coastal Protection

SEPP 71 provides the following matters for consideration for development in coastal areas:

- (l) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (o) likely impacts of development on the water quality of coastal waterbodies.

Consistent: The subject land is within the coastal zone but is not in a sensitive coastal location. The proposed amendments will have no impact on the coastal zone.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
1.1 Business and Industrial Zones To encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified strategic centres.	Consistent See below.
2.2 Coastal Protection To implement the principles in the NSW Coastal Policy.	Consistent See below.
3.4 Integrating Land Use and Transport To ensure efficient and viable transport options, reduce dependence on cars, support public transport and provide for the efficient movement of freight.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

1.1 Business and Industrial Zones

This direction states that a planning proposal must:

- (a) give effect to the objectives of this direction,
- (b) retain the areas and locations of existing business and industrial zones, and
- (c) not reduce the total potential floor space area for employment uses and related public services in business zones.

Consistent. The planning proposal retains existing business zoning and does not reduce total potential floor space for employment and related uses. Improved access arrangements have been provided for through the issue of development consent for redesign of car parking and vehicular and pedestrian access.

2.2 Coastal Protection

This Direction states that a planning proposal must include provisions that are consistent with the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, the *Coastal Design Guidelines 2003* and the *NSW Coastline Management Manual 1990*.

Consistent. The subject land is within the coastal zone but is not in a sensitive coastal location. The proposed amendments will have no impact on the coastal zone.

3.4 Integrating Land Use and Transport

This Direction states that a planning proposal must include provisions that give effect and are consistent with *Improving Transport choice – Guidelines for planning and development* (DUAP 2001) and *The right Place for Business and Services – Planning Policy* (DUAP 2001).

Consistent. The planning proposal retains existing business zoning and does not reduce total potential floor space for employment and related uses. Improved access arrangements have been provided for through the issue of development consent for redesign of car parking and vehicular and pedestrian access.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is not inconsistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The proposal will have positive social and economic effects through the closure of a narrow and sight-restricted laneway and its replacement with safer and more convenient pedestrian access arrangements.

Section D – STATE and COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

While the planning proposal will result in the closure of a public laneway, it will be replaced with safer and more convenient pedestrian access arrangements.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Appendix 26 – Justification for Item No. 26

Name of item	Intended Outcome
Amend Schedule 4, Land Zoning Map, Lot Size Map and Height of Buildings Map	Reclassify land at George Bass Drive, Malua Bay to operational, rezone the land R2 Low Density Residential, provide for a minimum lot size of 550m ² and a maximum building height of 8.5m.

For further details of the proposed reclassification, see the table below.

Lot and DP	Address	Suburb	Area	Identified through Recreation Strategy	Interests Changed	Intention
Lot 574 DP 32008	George Bass Drive	Malua Bay	127m ²	No	No	To enable the sale of the land to an adjoining owner.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of any strategic study or report, but is in response to a request from an adjoining land owner.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is no alternative means to achieve the objective of the planning proposal.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The planning proposal is not inconsistent with any element of the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council's local strategy or other local strategic plan

The planning proposal is consistent with Council's Community Strategic Plan by ensuring planning is responsive to the environment and community needs.

5. Is the planning proposal consistent with applicable state environmental planning policies?

State Environmental Planning Policies and Aims/Objectives	Consistency of Planning Proposal
SEPP71 Coastal Protection To further implement the NSW Government's coastal policy.	Consistent See below.

An assessment of applicable State Environmental Planning Policies against the planning proposal is provided below.

SEPP 71 – Coastal Protection

SEPP 71 provides the following matters for consideration for development in coastal areas:

- (m) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (p) likely impacts of development on the water quality of coastal waterbodies.

Consistent: The subject land is within the coastal zone but is not in a sensitive coastal location. The proposed amendments will have no impact on the coastal zone.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
2.1 Environment Protection Zones To protect and conserve environmentally sensitive areas.	Inconsistent See below.
2.2 Coastal Protection To implement the principles in the NSW Coastal Policy.	Consistent See below.
3.1 Residential Zones To encourage a variety of housing types, ensure access to appropriate infrastructure and services and minimise impacts on the environment and resource lands.	Consistent See below.
3.4 Integrating Land Use and Transport To ensure efficient and viable transport options, reduce dependence on cars, support public transport and provide for the efficient movement of freight.	Consistent See below.
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

2.1 Environment Protection Zones

This direction states that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. Further, it states that a planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land.

Inconsistent, but of minor significance. While this planning proposal proposes the rezoning of a small corner of a public reserve currently zoned E2 Environmental Conservation to the R2 Low Density Residential zone, the subject area contains no native vegetation (see Figure 26-1). Rezoning the land will have no detrimental impacts on the natural environment and the inconsistency with the Ministerial Direction is considered justified on the grounds that it is minor in nature.

2.2 Coastal Protection

This Direction states that a planning proposal must include provisions that are consistent with the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, the *Coastal Design Guidelines 2003* and the *NSW Coastline Management Manual 1990*.

Consistent. The subject land is within the coastal zone but is not in a sensitive coastal location. The proposed amendments will have no impact on the coastal zone.

3.1 Residential Zones

This Direction states that a planning proposal must contain provisions that encourage a variety and choice of housing types, make efficient use of existing infrastructure and services and minimise impacts of residential development on the environment and resource lands.

Consistent. The planning proposal will have no detrimental impacts of housing choice, infrastructure and services or the environment. The planning proposal is considered consistent with this direction.

3.4 Integrating Land Use and Transport

This Direction states that a planning proposal must include provisions that give effect and are consistent with *Improving Transport choice – Guidelines for planning and development* (DUAP 2001) and *The right Place for Business and Services – Planning Policy* (DUAP 2001).

Consistent. The planning proposal will have no detrimental impacts of transport choice or accessibility. The planning proposal is considered consistent with this direction.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is not inconsistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

9. Has the planning proposal adequately addressed any social and economic effects?

The planning proposal will have no social or economic effects.

Section D – STATE and COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

The planning proposal will have no impact on public infrastructure.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

Figure 26-1: Subject Land



Appendix 27 – Justification for Item No. 27

Name of item	Intended Outcome
Rename ELEP 2012 to ELEP 2016 and repeal RLEP 1987	RLEP 1987 is no longer required as all LEP provisions applying to the whole of Eurobodalla will be contained in one LEP, to be renamed ELEP 2016.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the direct result of the Eurobodalla Rural Lands Strategy, adopted by Council on 23 February 2016. The planning proposal implements the recommendation of the Rural Lands Strategy, which states that while the Rural LEP 1987 *“was partly repealed in 2012, it remains in force over the deferred lands. One of the tasks of this Strategy is to recommend appropriate zoning for these deferred areas to enable the full repeal of this LEP. The recommendation is made that the majority of the deferred lands be zoned RU1”*.

In addition, given the extent of changes proposed to ELEP 2012, it is proposed to rename the LEP to Eurobodalla Local Environmental Plan 2016 (ELEP 2016).

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is no alternative means to achieve the objective of the planning proposal.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The consolidation of all lands in the Eurobodalla Shire under one LEP is consistent with the South Coast Regional Strategy.

4. Is the planning proposal consistent with the Council’s local strategy or other local strategic plan

The planning proposal implements Council’s Rural Lands Strategy.

5. Is the planning proposal consistent with applicable state environmental planning policies?

There are no SEPPs applicable to this item.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Applicable Ministerial Directions and Objectives	Consistency of Planning Proposal
5.1 Implementation of Regional Strategies To give legal effect to regional strategies.	Consistent See below.

An assessment of applicable s.117 Directions against the planning proposal is provided below.

5.1 Implementation of Regional Strategies

This direction states that a planning proposal must be consistent with a regional strategy released by the Minister for Planning.

Consistent. As outlined in Section 3 above, the planning proposal is consistent with the South Coast Regional Strategy.

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The planning proposal will have no social or economic effects.

Section D – STATE and COMMONWEALTH INTERESTS

10. *Is there adequate public infrastructure for the planning proposal?*

The planning proposal will have no impact on public infrastructure.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.